

***United States Bankruptcy Court
District of South Carolina***



ATTORNEY DESK REFERENCE MANUAL

Brenda K. Argoe, Clerk

***This manual is subject to being updated and amended as laws, regulations, policies and procedures which affect operations in this court change.**

July 1999

CLERK'S ACKNOWLEDGMENTS

This third edition of the Attorney Desk Reference Manual for the United States Bankruptcy Court for the District of South Carolina is the culmination of the efforts of many of the staff in the clerk's office who reviewed the previous edition and made the necessary changes to ensure the manual's currentness and accuracy.

The task of producing this manual, and of periodically reviewing and updating it, is undertaken in the belief that reference to it will aid practitioners and their assistants in preparing and filing documents with the court and in researching court records. The manual continues to be a work-in-progress, as previous editions have been, due to the changing nature of the laws, rules and procedures which govern practice in United States Bankruptcy Courts.

With appreciation for the efforts of all persons in the various divisions of the clerk's office who provided information and assistance, I give special recognition to:

Kendall Epps Alexander, Process Manager for Case Administration, for acting as coordinator for the input and changes from all divisions

M. Frank Baker, Jr., Administrative Analyst for Information Resources Management, for formatting and indexing the manual and for updating the automated "Help Desk"

M. JaNell Hedgepath, Chief Deputy and Wanda K. Williams, Administrative Analyst for assisting me in reviewing, final editing, and publishing

Suggestions for future editions are welcome and should be made in writing.

Brenda K. Argoe, Clerk
United States Bankruptcy Court
District of South Carolina

NOTICE

The Attorney Desk Reference Manual has been revised by the clerk's office using information, policies and procedures in effect as of July 1999 from the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure, the Local Rules of this court and various guidelines of the Judicial Conference of the United States, the Administrative Office of the United States Courts, and policies and procedures particularly established and followed in the United States Bankruptcy Court for the District of South Carolina. This manual is not a substitute for all requirements contained in those documents and any reproduction of this manual or reliance on it should be made only after ascertaining that there have been no changes to the Laws, Rules, and Procedures since the preparation of the document (7/99). The clerk's office is not responsible for any such reproduction or reliance. Notice of changes/updates to this manual will be posted on the court's WEB systems.

PREFACE

South Carolina Local Bankruptcy Rule (SC LBR) 9014-2 specifies requirements for motions approved for "passive" notice. In this reference manual, the words "passive notice" or "notice passively" mean notice and an opportunity for a hearing. The clerk's office encourages as many matters as possible, which are included on the passive notice list be noticed passively in order to expedite the process of resolving issues.

(For additional information on this topic, see **V. M. PASSIVE NOTICES** page 54, **VI. Exhibit 11 – Clerk's Instruction 9014-2: Motions on Passive Notice** page 115, and **Exhibit 12 – Local Official Form 9014-2(b) To SC LBR 9014-2** on page 119),

Pursuant to SC LBR 2002-1, the clerk's office may delegate noticing functions.

In this reference manual each gender includes the other gender and the singular includes the plural and conversely (i.e., debtor refers to all debtors in a case).

In this reference manual, use of the word "parties" regarding serving documents/orders generally means the debtor, the debtor's attorney, the trustee and the moving party (if any) and the United States Trustee. "Parties" refers to the parties to a particular matter (a motion, an adversary, a document, etc.) rather than to all creditors and parties in interest.

In this reference manual, the word "document" includes all papers or documents presented for filing or submission but excludes exhibits submitted during a hearing or trial.

The following abbreviations are used:

ECRO	-	Electronic Court Recorder Operator
FRC	-	Federal Records Center
FRBP	-	Federal Rules of Bankruptcy Procedure
FRCP	-	Federal Rules of Civil Procedure
SC LBR	-	South Carolina Local Bankruptcy Rules
LOF	-	Local Official Form to South Carolina Local Bankruptcy Rule
"Code"	-	The Bankruptcy Code (Title 11, United States Code)
§	-	Denotes a Section of the Bankruptcy Code
PACER	-	Public Access to Court Electronic Records
VCIS	-	Voice Case Information System
WEB	-	Internet Web Site

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I. BANKRUPTCY COURT AT A GLANCE

A. BUSINESS HOURS OF THE COURT

The public business hours of the office of the clerk are 9:00 a.m. to 4:30 p.m. all days except Saturday, Sunday and legal holidays. In an emergency and subject to review by the court, papers may be filed at other times by making prior arrangements to do so during public business hours.

B. JUDGES AND STAFF

THE HONORABLE J. BRATTON DAVIS
CHIEF JUDGE

Secretary: REGINA L. REINOVSKY
Law Clerk: ROBERT C. KELLY

THE HONORABLE WM. THURMOND BISHOP
JUDGE

Law Clerk: E. HARVIN BELSER
Law Clerk: ROBIN L. BLUME

THE HONORABLE JOHN E. WAITES
JUDGE

Secretary: JULIA T. ROBB
Law Clerk: ELISABETTA GIOVANNA MARIA GASPARINI

C. STAFF OF THE CLERK'S OFFICE

For additional information on this topic, see [VI. Exhibit 1 – Organization Chart on page 63](#) and [VI. Exhibit 17 - Bankruptcy Telephone Extensions on page 141](#).

D. MAILING ADDRESS OF THE COURT AND HEARING LOCATIONS

For general correspondence	United States Bankruptcy Court
and proofs of claim in	Post Office Box 1448
chapter 7, 11, & 12 cases:	Columbia, SC 29202

Proofs of claim in
chapter 13 cases
(according to trustee
assignment):

United States Bankruptcy Court
Attn: Ch. 13 claims - Stephenson, Trustee
Post Office Box 114
Columbia, SC 29202

United States Bankruptcy Court
Attn: Ch. 13 claims - Levy, Trustee
Post Office Box 504
Columbia, SC 29202

United States Bankruptcy Court
Attn: Ch. 13 claims – Trustee (to be appointed)
Post Office Box 454
Columbia, SC 29202

Hearing Locations:

United States Bankruptcy Court
1100 Laurel Street
Columbia, SC 29201

Room 225
145 King Street
Charleston, SC 29401

Donald Stuart Russell Federal Courthouse
201 Magnolia Street
Spartanburg, SC 29301

First meetings of
creditors are held:

Strom Thurmond Federal Building
1835 Assembly Street, Room 953
Columbia, SC 29201

L. Mendel Rivers Federal Building
334 Meeting Street
Federal Building, Room 205
Charleston, SC 29401

Donald Stuart Russell Federal Courthouse
201 Magnolia Street
Spartanburg, SC 29306-2355

While hearings are scheduled and heard in Charleston and Spartanburg, the Columbia office is the only staffed office for the bankruptcy court. All documents must be filed in Columbia and all telephone inquiries directed to Columbia. Do Not use the Charleston and Spartanburg addresses as mailing address. (For additional information on this topic, see **V. H. HEARINGS on page 51**).

E. TRUSTEES AND UNITED STATES TRUSTEE

REGION 4 U. S. TRUSTEE: W. CLARKSON MCDOW, JR.
1201 Main Street, Suite 2440
Columbia, SC 29201

ASSISTANT U. S. TRUSTEE
DISTRICT OF S.C.: JOSEPH F. BUZHARDT, III
1201 Main Street, Suite 2440
Columbia, SC 29201

CHAPTER 7 PANEL TRUSTEES: ROBERT F. ANDERSON
PO Box 76
Columbia, SC 29202

KEVIN CAMPBELL
PO Box 684
Mt. Pleasant, SC 29465

JOHN K. FORT
PO Box 426
Spartanburg, SC 29304

W. RYAN HOVIS
PO Box 10269
Rock Hill, SC 29731-0269

L. WINSTON LEE
10 Brookside Circle
Greenville, SC 29609

RALPH C. MCCULLOUGH, II
PO Box 1799
Columbia, SC 29202

CHAPTER 13 STANDING
TRUSTEES:

R. GEOFFREY LEVY
PO Box 2066
Columbia, SC 29202

WM. KEENAN STEPHENSON, JR.
PO Box 8477
Columbia, SC 29202

VACANT
To be appointed by the U.S. Trustee

CHAPTER 12 TRUSTEE: Appointed by U.S. Trustee on a case
by-case basis

(For additional information on this topic, see **VI. Exhibit 13 - Trustee List on page 123**)

F. FEDERAL HOLIDAYS

The United States Bankruptcy Court closes in observance of the following federal holidays:

1. New Year's Day (January 1)
2. Martin Luther King Jr.'s Birthday (3rd Monday in January)
3. President's Day (3rd Monday in February)
4. Memorial Day (Last Monday in May)
5. Independence Day (July 4)
6. Labor Day (1st Monday in September)
7. Columbus Day (2nd Monday in October)
8. Veteran's Day (November 11)
9. Thanksgiving Day (4th Thursday in November)
10. Christmas Day (December 25)

G. TELEPHONE DIRECTORY

Clerk's Office: (803/765-5436)

Clerk's Office: (803/765-5211 or 1-800-669-8767) Voice Case Information System (VCIS) will provide information on cases filed on or converted after December 1, 1988. If the case is open and filed prior to December 1, 1988, it will be on VCIS. The computer-generated, voice-synthesized system can be accessed from any touch-tone type telephone. VCIS is available 24 hours a day except during system backup which is usually performed between the hours of 5:00 p.m. to 6:30 p.m.

VCIS will provide the most recent information available about the case, including:

1. Case number
2. Chapter of case
3. Debtor's (or party's) name
4. Filing date
5. Attorney for the debtor
6. Trustee assigned to the case
7. Judge assigned to the case
8. Date and location of the Meeting of Creditors
9. Discharge and closing dates. VCIS does not provide the date of an order dismissing a case.
10. Last date to file claims
11. Social Security number or Tax Identification number

Under normal conditions, information on new cases will be accessible from VCIS the day following the day they are filed.

Other Information: (803/765-5436) Information in addition to that provided by VCIS may require a file search and may require a written request and payment of fees prescribed by 28 U.S.C. § 1930(b).

NOTE: All telephone inquiries should be directed to the Columbia office. The Charleston and Spartanburg offices have telephones for internal court use only. The clerk's office cannot act as a message center for attorneys and parties attending hearings at any location.

H. FORM OF FILING FEES AND MISCELLANEOUS FEES

Pursuant to SC LBR 5001-1, payments to the court can be made by:

1. Cash
2. United States Postal Service money order (no other type of money order is acceptable)
3. Certified check drawn on a bank which is a member of the Federal Reserve system
4. Check drawn upon the account of an attorney or other entity whose check is acceptable to the clerk.

All checks or money orders must be made payable to the "Clerk, United States Bankruptcy Court". No check or money order should be made payable in an individual court employee's name. (For additional information on this topic, see **VI. [Exhibit 16 - Bankruptcy Court Fee Schedule on page 135](#)**).

I. COPY SERVICE FOR DOCUMENT COPY REQUESTS AND COURT CALENDARS

The court has a contract with Copy Pickup, Inc. to provide copying services for the court upon request of any interested party. Copy Pickup, Inc. is on site at the court from 10:00 a.m. until 2:00 p.m.. Requests for copies of documents from case files, adversary files, or statistical reports should be made to Copy Pickup, Inc.

Statistical reports furnished monthly by the copy service include: Closed Cases Report (previous month), Reopened Cases Report (previous month), Monthly Filings (previous month), and County Statistics (previous month). A Daily Filings Report can be requested daily through the copy service.

Copy Pickup, Inc. also furnishes copies of § 341 Meeting of Creditors calendars and Judges' calendars. If a party is interested in receiving court calendars, a written request should be made directly to Copy Pickup, Inc. Copy Pickup, Inc. will need to know the type of court calendar (§ 341 Meetings, Judge Davis, Judge Bishop, and/or Judge Waites) and the location of meetings or hearings (Columbia, Spartanburg and/or Charleston).

Direct All Requests To:

Copy Pickup, Inc.
806 Harden Street
PO Box 50288
Columbia, SC 29250-0288

Phone: 803/771-0585
Fax No.: 803/252-2431

Copy Pickup's Charge for Services:

Photo copies: \$.25 per page
Fax: \$2.00 per page to send long distance
\$1.00 per page to receive or send locally
Expedited: \$7.50

Blank Voluntary Petition packages can be obtained for :

Chapter 7 - \$3.20	Chapter 11 - \$3.40	Chapter 12 - \$3.10
Chapter 13 - \$3.60	Per page - \$0.10	

Pre-payment of copying charges is not required by Copy Pickup, Inc., but failure to pay the copying bill within twenty (20) days of billing may result in future copy requests being refused without pre-payment. Copy Pickup, Inc. is eager to work with anyone, particularly with emergency requests, however, they prefer all requests for copies in writing. The person requesting copies needs to include the firm name along with their individual name for billing purposes. Concerns about copy service in a particular instance or case, should be directed, in writing, to Copy Pickup, Inc., with a copy sent to the Clerk of Court.

The clerk's office will provide copying services upon request, and the requesting party must deal directly with the chief deputy, operations manager or intake process manager. Pre-payment is required for all copy requests filled by the clerk's office. The \$15 file search fee applies to copies made by the clerk's office in addition to the \$.50 per page copy cost (see 28 U.S.C. § 1930(b) and the appendix thereto).

A Copy Request Form can be obtained from the clerk's office upon request.

J. CASE/JUDGE ASSIGNMENT

THE HONORABLE J. BRATTON DAVIS:

A. Columbia – One-half Chapter 11 cases, Chapter 12 cases, Chapter 13 cases

THE HONORABLE WM. THURMOND BISHOP:

A. Spartanburg – Chapter 7 cases, one-half Chapter 11 cases, Chapter 12 cases

B. Columbia – One-fourth Chapter 11 cases

- C. Charleston - Chapter 13 cases, one-half Chapter 11 cases

THE HONORABLE JOHN E. WAITES:

- A. Spartanburg - Chapter 13 cases, one-half Chapter 11 cases
- B. Columbia - Chapter 7 cases, one-fourth Chapter 11 cases
- C. Charleston - Chapter 7 cases, one-half Chapter 11 cases, Chapter 12 cases.

(For additional information on this topic, see [V. E. CONFLICTS OF INTEREST/DISQUALIFICATION OF JUDGE on page 49](#)).

K. FORMS AVAILABLE FROM THE CLERK'S OFFICE

The clerk's office has numerous forms, clerk's instructions (detailed to accompany Local Bankruptcy Rules), Local Official Forms (accompany the Local Bankruptcy Rules), and information handouts that are available to the public. Forms and information handouts that are frequently requested are on a personal computer (PC) located in the Intake lobby. Frequently requested official forms that are supplied by the clerk's office are located on the PC and on the carousel in the Intake lobby. Forms that are available, but not frequently requested, can be requested at the Intake counter or by written request. The court has also made the most frequently requested forms, official forms and handouts available on the Internet Web Site. These forms will be denoted with the (W) notation. Listed below are the available forms and their location. These forms are subject to change and parties should regularly check the WEB, PC or at the Intake Counter to be sure they are using the most recent revision of forms.

1. LOCAL OFFICIAL FORMS TO SOUTH CAROLINA LOCAL BANKRUPTCY RULES

Local Official Form 1002-1:	Notice To Individual Consumer Debtor (W)(PC)
Local Official Form 1006-1:	Application To Pay Filing Fee, Administrative Fee, And Trustee Surcharge Fee In Installments (W)(PC)
Local Official Form 1007-1(a):	Request For Waiver (W)(PC)
Local Official Form 1007-1(b):	Certification Verifying Creditor Matrix (W)(PC)
Local Official Form 1007-2:	Debtor's Claim For Property Exemption (W)(PC)
Local Official Form 2082-1:	Chapter 12 Plan (W)(PC)

Local Official Form 3011-1(a):	Individual Identification Form For Unclaimed Dividends (W)(PC)
Local Official Form 3011-1(b):	Corporation/Business Identification Form For Unclaimed Dividends (W)(PC)
Local Official Form 3011-1(c):	Motion For Payment Of Unclaimed Dividends (W)(PC)
Local Official Form 3011-1(d):	Order Authorizing Payment Of Unclaimed Dividends (W)(PC)
Local Official Form 3012-1(a):	Motion To Value Security Under 11 U.S.C. § 506(a) (W)(PC)
Local Official Form 3012-1(b):	Order Setting Value Of Security (W)(PC)
Local Official Form 3015-1(a):	Notice, Chapter 13 Plan And Related Motions (W)(PC)
Local Official Form 3015-1(b):	Notice Of Plan Modification Before Confirmation (W)(PC)
Local Official Form 3015-1(c):	Notice Of Plan Modification After Confirmation (W)(PC)
Local Official Form 3018-1:	Ballot For Accepting Or Rejecting Plan (W)(PC)
Local Official Form 4001-1(a):	Notice Of Motion For Relief From Automatic Stay (11 U.S.C. § 362) (W)(PC)
Local Official Form 4001-1(b):	Certification Of Facts (W)(PC)
Local Official Form 4001-1(c):	Settlement Order (W)(PC)
Local Official Form 4001-3(a):	Motion For Permission To Collect Child Support (W)(PC)
Local Official Form 4001-3(b):	Certification Of Service (W)(PC)
Local Official Form 4001-3(c):	Order Granting Motion For Permission To Collect Child Support (W)(PC)
Local Official Form 4001-4:	Notice And Motion Pursuant To Federal Rule Of Bankruptcy Procedure 4001(d) (W)(PC)

Local Official Form 4003-1(a):	Motion To Avoid Judicial Lien (11 U.S.C. § 522(f)) (W)(PC)
Local Official Form 4003-1(b):	Motion To Avoid Security Interest (11 U.S.C. § 522(f)(1)(B))(W)(PC)
Local Official Form 4003-1(c):	Order Avoiding Non-Purchase Money, Nonpossessory Security Interest (11 U.S.C. § 522(f)(1)(B)) (W)(PC)
Local Official Form 4003-1(d):	Order Avoiding Judicial Lien (11 U.S.C. § 522(f)(1)(A)) (W)(PC)
Local Official Form 5010-1:	Order Upon Motion Reopening Case (W)(PC)
Local Official Form 6004-1(a):	Notice And Application For Sale Of Property Free And Clear Of Liens (W)(PC)
Local Official Form 6004-1(b):	Report Of Sale (W)(PC)
Local Official Form 6004-1(c):	Order Authorizing Sale Of Asset (W)(PC)
Local Official Form 6007-1(a):	Notice And Application For Abandonment Of Property (W)(PC)
Local Official Form 6007-1(b):	Order Authorizing Abandonment Of Property (W)(PC)
Local Official Form 6007-1(c):	Consent Order Authorizing Abandonment Of Property And Modifying Stay (Following Service Of Application For Abandonment Of Property) (W)(PC)
Local Official Form 6007-1(d):	Consent Order Authorizing Abandonment Of Property And Modifying Stay (Following Announcement Of Abandonment At 11 U.S.C. § 341 Meeting Of Creditors) (W)(PC)
Local Official Form 6007-1(e):	Certificate Of No Objection (W)(PC)
Local Official Form 7016-1:	Certificate Of Settlement Of § 362 Motion, Contested Matter, Or An Adversary Proceeding (W)(PC)
Local Official Form 9014-1:	Certification Of Necessity For Emergency Hearing (W)(PC)

- Local Official Form 9014-2(a): Notice Of Motion/Application And Opportunity For Hearing (W)(PC)
- Local Official Form 9014-2(b): Motions/Applications Approved For "Passive" Notice (W)(PC)
- Local Official Form 9019-1: Notice And Application For Settlement And Compromise(W)(PC)

2. MISCELLANEOUS FORMS AVAILABLE FROM THE CLERK'S OFFICE

Notice of Filing Application for Professional Fees and Expenses (PC)

Schedules I & J for Chapter 11 Business Debtors (PC)

Expedited Hearing and Cover Sheet (PC)(W)

Notice of Objection to Claim(PC)

Certificate of Service (PC)

Notice of Appeal (PC)

3. MISCELLANEOUS INFORMATION HANDOUTS AVAILABLE FROM THE CLERK'S OFFICE

Clerk's Instruction 1007-(a): Submission Of The List Of Creditors On Computer Diskette (PC)(W)

Clerk's Instruction 1007-1(b): Submission Of The List Of Creditors On Hard Copy In A Scannable Format (PC)(W)

Clerk's Instruction 1007-2: Debtor's Claim For Property Exemption (PC)(W)

Clerk's Instruction 2002-1: Notices To Creditors (PC)(W)

Clerk's Instruction 3011-1: Disposition Of Unclaimed Dividends (PC)(W)

Clerk's Instruction 4001-1: Proceedings To Modify Stay (PC)(W)

Clerk's Instruction 5001-1: Automation Services (PC)(W)

Clerk's Instruction 5005-1: Filing Of Documents In Clerk's Office (PC)(W)

Clerk's Instruction 8006-1: Records And Issues On Appeal (PC)(W)

Clerk's Instruction 9014-2: Motions On Passive Notice (PC)(W)

Clerk's Office Telephone Extensions (PC)(W)

Trustee List (PC)(W)

Passive Notice List (PC)(W)

Rule 83I & 83X (PC)

Fee Schedule (PC)(W)

SIPA Information (PC)

Information Required at 341 Meeting (PC)

Bankruptcy Information for Pro Se Debtor (PC)(W)

Chapter Information Sheet (PC)(W)

Consumer Rights in Bankruptcy (PC)

PACER Information (PC)(W)

VCIS Information (PC)(W)

Bankruptcy Terminology (PC)

4. OFFICIAL FORMS AVAILABLE FROM THE CLERK'S OFFICE

Non-Attorney Petition Preparer/Statement of Debtor Assistance (PC)

Subpoena for Rule 2004 Examination (carousel)(W)

Subpoena in an Adversary Proceeding (carousel)(W)

Subpoena in a Case Under the Bankruptcy Code (carousel)(W)

Transcript Order (carousel)

Tape Order (carousel)

Proof of Claim (carousel)(W)

Adversary Cover Sheet (carousel)(W)

Notice of Appeal (PC)

L. UNITED STATES TRUSTEE'S REQUIREMENTS IN CHAPTER 11 CASES

Attached as an appendix to this manual (For additional information on this topic, see **VII. B.** [United States Trustee's Requirements in Chapter 11 Cases on page 161](#)).

M. MAILING MATRICES SUBMITTED ON COMPUTER DISKS

Matrices should be submitted in accordance with SC LBR 1007-1 and Clerk's Instructions. (For additional information on this topic, see **VI. Exhibit 2 - Clerk's Instruction 1007-1(a): Submission of the List of Creditors on Computer Diskette on page 67** and **VI. Exhibit 3 - Clerk's Instruction 1007-1(b): Submission of the List of Creditors on Hard Copy in a Scannable Format on page 73**).

II. FILING INFORMATION & REQUIREMENTS

A. *GENERAL CHAPTER INFORMATION AND PROCEDURES*

The purpose of this section is to provide you with general information on the five chapters of the United States Bankruptcy Code under which you may file a bankruptcy petition. **Neither the judges nor the court's employees may provide you with legal advice.**

1. **Chapter 7: Liquidation**

Chapter 7 is designed for debtors in financial difficulty who do not have the ability to pay their existing debts. Under this chapter, a trustee takes possession of the debtor's property, sells or otherwise disposes of all non-exempt property and uses the money derived from any such sales to pay creditors according to the priorities of the Bankruptcy Code and the direction of the court.

The usual purpose of filing a chapter 7 is to obtain a discharge of existing debts. If, however, a debtor is found to have committed certain kinds of improper conduct described in the Bankruptcy Code, the discharge may be denied by the court, and the purpose for filing the bankruptcy case will be defeated. Even if a debtor receives a discharge, there are some debts that are not discharged under the law. For example, a debtor may still be responsible for debts including, but not limited to, certain taxes and student loans, alimony and support payments, debts fraudulently incurred, debts for willful and malicious injury to a person or property, and debts arising from driving while intoxicated.

In certain circumstances, a debtor may keep property that was purchased subject to a valid security interest, such as a house, an automobile, etc..

2. **Chapter 9: Municipality**

The purpose of chapter 9 is to allow a municipality (political subdivision, or public agency or instrumentality of a State) to continue operating while it adjusts or refinances creditor claims with minimum loss to its creditors. A municipal unit cannot liquidate its assets to satisfy its creditors totally and finally. This chapter gives the municipal debtor a breathing spell from debt collection efforts in order to allow the debtor to work out a repayment plan for its creditors.

Due to the fact that chapter 9 filings are infrequent, this office has found that the best procedure is to have the court enter an operating order at the beginning of the case to set forth filing requirements, deadlines and future hearing dates.

The United States Trustee has no authority in chapter 9 cases other than to appoint a creditors' committee, so the attorney for the debtor will work very closely with the court in these cases. Attorneys anticipating filing a chapter 9 case should contact the clerk prior to filing the case if possible.

All noticing functions are delegated to the attorney for the debtor. This includes both written notices by mail and notice by publication required under this chapter.

There may be some delay at the beginning of a case due to the fact that the presiding judge must be appointed by the Chief Judge of the United States Court of Appeals in the circuit in which the case is filed (in this district, the Fourth Circuit).

Unlike other chapters, the creditors in chapter 9 cases have the right to object to the filing of the case. This is normally handled by including language in the notice of commencement of case informing creditors of this right and of the deadline set by the court to do so.

The number of documents required in a chapter 9 will be set forth in the operating order as they differ from all other chapters due to requirements set forth in 11 U.S.C. § 923.

3. Chapter 11: Reorganization

An individual may file under chapter 11; however, it is generally used to reorganize a business. Chapter 11 allows the debtor to continue its business operations by means of a plan of reorganization, which must meet certain statutory criteria. 11 U.S.C. § 1129. By enacting chapter 11, Congress gave the debtor a chance to restructure its finances so that it may continue to operate, provide its employees with jobs, pay its creditors, and produce a return for its stockholders. Because chapter 11 envisions an ongoing business, the most likely persons to have knowledge of the operation and details of the business are the existing management who normally continue operations during the chapter 11 process. A major rationale for business reorganizations is that the value of a business as an ongoing concern is greater than it would be if its assets were sold. When a business develops financial difficulties, such as not being able to pay its creditors due to cash flow problems, it may consider filing a chapter 11 bankruptcy. If the business can extend or reduce its debts, or drastically lower its operating costs, it often can be returned to a viable state. Generally, it is more economically efficient to reorganize than to liquidate, because doing so preserves jobs and assets. Cooperation among the various interests, including communications with the U.S. Trustee's office, is crucial to a successful reorganization.

a. *Small Business Chapter 11 Reorganization Cases*

See FRBP 1020, 3016, 3017

Pursuant to 11 U.S.C. § 1121 in a chapter 11 case, a debtor that is a small business

may elect to be considered a small business by filing a written statement of election no later than sixty (60) days after the date of the order for relief or by a later date as the court, for cause, may fix. If a timely election to be considered a small business in a chapter 11 case is made, the court may, on application of the plan proponent, conditionally approve a disclosure statement filed in accordance with FRBP 3016.

b. Monthly Reports

Copy Requirements - original plus 1 (Plus 2 and a self-addressed stamped envelope, if filing party wishes a copy returned to them)

Monthly reports are frequently returned to the debtor or debtor's attorney due to the debtor's failure to sign the report. We also receive monthly reports quite often without the proper number of copies. See SC LBR 2081-1 and 2015-1. Our policy as to monthly reports submitted without the proper number of copies is to send a letter to the debtor or their attorney requesting that the copies be submitted within five (5) days. If the court does not receive these, we will make the copies and send a bill to the debtor's attorney for them.

One suggestion for addressing these problems is that you have your client send the reports to you for review before filing them with the clerk's office.

c. Objections to Confirmation of Plan And Ballots

Copy Requirements - original plus 2

Objections to the plan should not be filed until after the disclosure statement has been approved and balloting on the plan has begun. The order approving the disclosure statement sets the date for filing objections to the plan.

Not fewer than three (3) days before the first date set for the hearing on the confirmation of the chapter 11 plan, the plan proponent will file the ballot tally with the clerk. Please enclose one copy of the tally and serve a copy on the United States Trustee. Refer to SC LBR 3018-1 regarding the preparation of the ballot tally. The tally should state the number and dollar amount of acceptances and rejections for each class of claims and the amount of acceptances and rejections for each class of interests. The Case Administrator will docket the ballot tally when it is filed by the plan proponent.

d. Chapter 11 Plan and Disclosure Statement

Copy Requirements - original plus 4

The attorney for the plan proponent will be required to serve the notice of hearing on disclosure statement and the order approving disclosure statement and setting a

hearing on confirmation of the plan. Please be familiar with the service requirements of FRBP 3017(a) and (d).

4. Chapter 12: Family Farmer

Chapter 12 is designed to permit family farmers to repay their debts over a period of time from future earnings and is in many ways similar to chapter 13. The eligibility requirements are restrictive, limiting its use to those whose income arises primarily from a family owned farm.

The Code provides that only a family farmer whose annual income is sufficiently stable and regular to be able to make payments under a chapter 12 plan may be a debtor, that is, file a petition for relief under chapter 12. 11 U.S.C. § 101(18); § 109(f). Allowance is made under chapter 12, however, for situations in which family farmers may have income that is seasonal in nature. Relief under the chapter is voluntary and thus only the debtor may file a petition under chapter 12. All documents subsequent to the petition for relief must have the original and two copies. 11 U.S.C. § 1221 provides for the filing of a plan by the debtor within ninety (90) days of the filing of the petition, and 11 U.S.C. § 1224 provides that the confirmation hearing shall be commenced within forty-five (45) days of the filing of the plan.

The chapter 12 trustee presides at a pre-confirmation conference before the hearing on confirmation. This is normally scheduled approximately twenty (20) days before the confirmation hearing. This has proven to be a very effective way of resolving objections and problems as to confirmation before the actual hearing on confirmation.

5. Chapter 13: Repayment of All or Part of the Debts of an Individual

Chapter 13 is designed for individuals with regular income who are temporarily unable to pay their debts but would like to pay them in installments over a period of time. A debtor is only eligible for chapter 13 if the debts do not exceed certain dollar amounts set forth in the Code.

Under chapter 13, a debtor must file a plan with the court to repay creditors all or part of the money owed them, using future earnings. Usually the period allowed by the court to repay debts is three years, and cannot be more than five years.

Under chapter 13, unlike chapter 7, a debtor may keep all property, both exempt and non-exempt, as long as the debtor continues to make payments under the plan and any other payments directly to certain creditors such as mortgage payments, which are considered outside of the plan. After making all payments provided in the plan, debts provided for in the plan are discharged, except alimony and child support payments, certain kinds of taxes owed for less than three years, long-term secured obligations, restitution debts, some student loan debts, and debts arising from driving

while intoxicated. (For additional information on this topic, see **VI. Exhibit 15 - C** [Order on page 131](#)).

B. VOLUNTARY PETITIONS

1. General Requirements - For All Voluntary Petitions (Chapter 7, 13, 11 & 12)

FRBP 9009 prescribes that the Official Forms "shall be observed and used with alterations as may be appropriate." These forms are not provided to the public by the court. The forms can be obtained from commercial legal printers or office supply stores. They are also available through various computer software packages. The copy service located at the clerk's office sells the voluntary petition package.

The official forms of the petitions, schedules, statements and plan are to be printed on one side of the paper only using 8 1/2 x 11 white (no colors) paper. Each page of the original set is to be pre-punched with two holes at the top, and sufficient top margin allowed so that neither caption nor text is destroyed or obscured. Compliance with these standards will facilitate both the securing of the papers in the case file and review of the file by the public.

The forms should be either typed or legibly printed. An example of a perfectly arranged set would be as follows:

Voluntary Petition (Top Page - Always) (Consists of Two Pages)*
(With Exhibit A or B)-If Applicable
Disclosure of Compensation
Notice to Individual Consumer Debtor(s)(If Applicable)
Summary of Schedules
Schedules A-J (In Alphabetical Order)
Statement of Affairs
Statement of Intent (If Applicable)
Certification Verifying Creditor Matrix
Mailing Matrix (If Applicable)
Waiver (If Applicable)

*A common mistake is the omission of the second page of the petition or the signature page. This sheet is very important not only for the signatures it must contain but also because it contains other information which needs to be completed if applicable. It should include both debtor's and attorney's signatures. **Documents to be left loose and unassembled would include Application to Pay Filing Fees, Notice, Chapter 13 Plan and Related Motions, Certificate of Service, Lien Avoidance Motions, Valuation Motions, and Proofs of Claims.**

Failure to submit appropriate filing fees with documents or an improper form of payment may result in the return of the document by the clerk's office. For example, a debtor's personal check, any money order other than a U.S. Postal Service money order, or a check or money order made payable to a named individual (i.e., "Brenda K. Argoe, Clerk") are not acceptable forms of payment. (For additional information on this topic, see **I. H. FORM OF FILING FEES AND MISCELLANEOUS FEES on page 5**).

Although not mandatory, it is advisable to send a separate check for each document requiring a filing fee. Obviously, this only becomes a problem if one check is sent for numerous documents and one of the documents cannot be filed.

Number of copies of the petition for relief required for each chapter are as follows:

Chapter 7 - Original and 2 copies

Chapter 13 - Original and 1 copies

Chapter 11 - Original and 4 copies

Chapter 12 - Original and 2 copies

You must include an additional copy and send a self-addressed, stamped, return envelope, for each case submitted, in order to receive a copy back if you are filing via the United States mail.

2. Items Required on the Petition

- a. The debtor's name including all trade names, names used in doing business, married names and maiden names should be furnished in the spaces provided. Attach an additional sheet if there is not enough room on the petition to list all names. The debtor's residence address, and separate mailing address, if any, must be listed. Please check the appropriate venue box and list the county of residence or principal place of business accordingly.

There is only one exception to the rule that only one entity may be a debtor. A husband and wife may file a joint petition and pay only one filing fee when filing a voluntary petition.

- b. The debtor's Social Security Number and/or Tax Identification Number must be provided. Additionally, it is important that all the other blocks and spaces be filled in such as the "Information Regarding Debtor" and "Statistical/Administrative Information". It is literally impossible for the clerk's office to enter new cases accurately into our computer system without this information. It would help our computer entry personnel, if you would enter the appropriate block # in the Statistical/Administrative Information section. For example, if your system automatically prints the number of creditors, assets, etc. you must manually print or type in "(block #_)."
- c. The attorney's name and/or firm name, address, and telephone number must be on the petition along with the attorney's district court identification number.

If you are listing the firm name, it is necessary for you to also indicate the specific attorney representing the debtor. The attorney who signs the petition will be entered into the BANCAP system as the designated attorney of record, and will remain so unless relieved of representation pursuant to SC LBR 9010-1.

3. Documents Required With/Subsequent to Petition

a. The mailing matrix is a vital part of the voluntary petition. This list of creditors must be submitted with the petition and comply with SC LBR 1007-1 and Clerk's Instruction 1007-1(a): Submission of the List of Creditors on Computer Diskette (VI. Exhibit 2) and Clerk's Instruction 1007-1(b): Submission of the List of Creditors on Hard Copy in a Scannable Format (VI. Exhibit 3).

4. Breakdown of the Documents Required to be Submitted with or Subsequent to the Filing of a Voluntary Petition in each Specific Chapter - 7, 13, 11 & 12

Please see explanation under "Note" to determine if a document is required in the particular case you are submitting to the court. Many factors determine the appropriate documents to be submitted such as: whether the debtor is an individual or a corporation; under what chapter the case is filed; whether the debtor has secured debts, etc.

a. Chapter 7

<u>Form #</u>	<u>Document</u>
B-1	Voluntary Petition (With Exhibit B)*
B-2	Declaration of Behalf of Corp. (If Applicable)
B-3	Application to Pay Filing Fee, Administrative Fee,** and Trustee Surcharge Fee in installments - \$75 Minimum (SC LBR 1006-1) (or \$130.00 Filing Fee, \$30 administrative fee, and a \$15 Trustee Surcharge Fee)
	NOTICE TO INDIVIDUAL CONSUMER DEBTORS***
	Disclosure of Compensation
B-6	Summary of Schedules
	Schedule A - Real Property
	Schedule B - Personal Property
	Schedule C - Property Claimed As Exempt****
	Schedule D - Creditors - Secured
	Schedule E - Creditors - Priority
	Schedule F - Creditors - Unsecured
	Schedule G - Executory Contracts & Unexpired Leases
	Schedule H - Codebtors
	Schedule I - Current Income

B-7 Schedule J - Current Expense
 Statement of Affairs
 B-8 Statement of Intention****
 MAILING MATRIX

b. Chapter 13

<u>Form #</u>	<u>Document</u>
B-1	Voluntary Petition (Corporation should not file under Chapter 13)
B-3	Application to Pay Filing Fee & Administrative Fee** - \$60 Minimum (SC LBR 1006-1) (or \$130.00 Filing Fee with a \$30 administrative fee) NOTICE TO INDIVIDUAL CONSUMER DEBTORS*** Disclosure of Compensation Notice, Chapter 13 Plan and Related Motions and Certificate of Service
B-6	Summary of Schedules Schedule A - Real Property Schedule B - Personal Property Schedule C - Property Claimed As Exempt**** Schedule D - Creditors - Secured Schedule E - Creditors - Priority Schedule F - Creditors - Unsecured Schedule G - Executory Contracts & Unexpired Leases Schedule H - Codebtors Schedule I - Current Income Schedule J - Current Expense
B-7	Statement of Affairs MAILING MATRIX

c. Chapter 11

<u>Form #</u>	<u>Document</u>
B-1	Voluntary Petition (With Exhibit A)*
B-2	Declaration on Behalf of Corp. (If Applicable)
B-3	Application to Pay Filing Fee** - \$330.00 Minimum (SC LBR 1006-1) (or \$830.00 Filing Fee) NOTICE TO INDIVIDUAL CONSUMER DEBTORS*** Disclosure of Compensation
B-4	List of 20 Largest Unsecured Creditors
B-6	Summary of Schedules Schedule A - Real Property Schedule B - Personal Property Schedule C - Property Claimed As Exempt**** Schedule D - Creditors - Secured Schedule E - Creditors - Priority Schedule F - Creditors - Unsecured

Schedule G - Executory Contracts & Unexpired Leases
 Schedule H - Codebtors
 Schedule I - Current Income
 Schedule J - Current Expense
 List of Equity Security Holders
 B-7 Statement of Affairs
 MAILING MATRIX

d. Chapter 12

<u>Form #</u>	<u>Document</u>
B-1	Voluntary Petition
B-3	Application to Pay Filing Fees** - \$105.00 Minimum (SC LBR 1006-1) (or \$230.00 Filing Fee)
B-6	Disclosure of Compensation Summary of Schedules Schedule A - Real Property Schedule B - Personal Property Schedule C - Property Claimed As Exempt**** Schedule D - Creditors - Secured Schedule E - Creditors - Priority Schedule F - Creditors - Unsecured Schedule G - Executory Contracts & Unexpired Leases Schedule H - Codebtors Schedule I - Current Income Schedule J - Current Expense
B-7	Statement of Affairs MAILING MATRIX

NOTE: The copy service located at the clerk's office sells the voluntary petition package.

- * Exhibit A - Required only in a Chapter 11 corporate filing.
- * Exhibit B - Required only in a Chapter 7, individual filing.
(Exhibits A & B are part of the official form B-1 - See FRBP/Form Section)
- ** Application to Pay Filing Fees, Administrative Fee, and Trustee Surcharge fee in Installments - It has been mandated by the Judicial Conference of the United States that the first \$30 received in installments be applied to the Administrative Fee) - SC LBR 1006-1 (Installment fees permitted only with an individual filing.)
- *** NOTICE TO INDIVIDUAL CONSUMER DEBTORS - Procedural Form - Required in all individual filings except Chapter 12 - SC LBR 1002-1.
- **** Schedule B-6, C and B-8 are not required for a corporate filing.
Chapter 13/11/12 - Procedural Form - Model plans can be located in Local Rules. Property Exemption form is attached to the Clerk's

Instructions for Debtor's Claim for Property Exemption.
MAILING MATRIX - Procedural Format - Reference SC LBR 1007-1.

5. **Emergency Filings/Minimum Filings**

The documents listed above for each chapter represent a complete voluntary petition filing. If you submit the petition with the documents as listed above, you would not receive a deficiency notice from the court. Many attorneys desire to file complete voluntary petition sets so that they are not burdened by the deadline requirements imposed upon them when they submit partial filings. However, it is sometimes necessary for attorneys to file what is called a "minimum" or "skeleton" filing. Whether it be for emergency reasons or just that the attorney does not have complete information, the following outlines what documents are required for a minimum filing.

a. For All Chapters:

Voluntary Petition (With Exhibit A or B, if applicable)
Declaration on Behalf of Corporation (if applicable)
Notice to Individual Consumer Debtor(s) (if applicable)
Disclosure of Compensation
Mailing Matrix
Appropriate Filing Fee and/or Application to Pay Filing Fee, Administrative Fee, and Trustee Surcharge Fee in Installments

b. For Chapter 11 Filings:

All of the above listed documents, and list of 20 Largest Unsecured Creditors.

(Of course, you would use information previously provided under "Note", paragraph 4. above, to decide if any or all documents listed are required for the particular filing you submit to the court.)

6. **Minimum Filings-Deadlines**

The deficiency notice will reference the deadlines applicable to the document which is deficient in the voluntary petition filing (refer to SC LBR 1007-2, 1007-3) Briefly, these deadlines are as follows:

- a. In a voluntary case when lists, schedules, statements, and in a chapter 13 case, notice, chapter 13 plan and related motions, are not filed at the time of the filing of the petition, the same are due within fifteen (15) days after the filing of the petition. (FRBP 1007, SC LBR 1007-2)

- b. Each individual chapter 7 debtor with consumer debts secured by property of the estate, shall file a statement of intention either with the filing of the petition or within thirty (30) days after the petition is filed or by the first date set for the meeting of creditors, whichever is earlier. (§ 521 (2)(A), FRBP 1007, SC LBR 1007-3)

It is extremely important that you carefully review the deficiency notices provided to you by the court. The court monitors these deficiencies and may enter an order of dismissal if these deficiencies are not cured in the prescribed period of time unless a motion to extend time for filing such documents is filed with the court. If you believe that you have received a deficiency notice in error, **do not** ignore the notice, contact the Intake Division immediately or the result may be dismissal under the applicable local rules.

At the time of filing the petition, the court will also give notice of SC LBR 1006-1 to the debtor or debtor's counsel who file applications to pay the filing fee, administrative fee, and trustee surcharge fee in installments. Please note that the copy of the order to pay the filing fee in installments that you will receive is the only notification that you will receive as to when the installments are due. The order will provide notice of the dismissal of the case in the event a payment is not made by the due date without further notice or hearing unless a hearing is requested prior to the date on which the next installment is due. Should the application be denied, the debtor has ten (10) days from the date of the order to pay the full filing fee. If the full filing fee is not paid within ten (10) days of the order, the debtor's bankruptcy petition may be dismissed by the court without further notice.

Upon the failure of the debtor to make any payment as ordered or to file a request for a hearing on dismissal prior to the date on which the next installment is due, the debtor's bankruptcy petition is subject to dismissal as provided in the order granting the application and SC LBR 1006-1.

C. SCHEDULES

Schedules I & J (Income and Expense) are now, and always have been, required by FRBP 1007(b)(1) for cases filed under all chapters (See the Advisory Committee note). These schedules are most frequently omitted in chapter 11 filings and corporation filings. There is no official form for these schedules in chapter 11 and business chapter 7 cases but you may obtain a locally developed form from the clerk's office which can be used for these schedules in chapter 11 cases and business chapter 7 cases.

Another problem frequently encountered is when the schedules are filed after the original petition has been filed and they include creditors who were not listed on the matrix filed with the petition. SC LBR 1009-1 sets forth the correct procedure to follow. A \$20.00 fee is due for any amendment to a debtor's schedule of creditors or lists of creditors. A Judge may, for good cause, waive the charge in any case.

All schedules should bear the signature of the debtor(s) and, in the event, on a particular

schedule, that the answer to the question is that they are not applicable or "none", the debtor should indicate "N/A" or "none" on that schedule.

When all required schedules/documents are not filed with the petition, a deficiency notice is provided to the debtor or debtor's attorney. If the required documents are not filed as set forth in the deficiency notice, pursuant to SC LBR 1007-2 or 1007-3 the court will promptly enter an order of dismissal.

D. INVOLUNTARY PETITIONS (Chapters 7 and 11 only) -- GENERAL REQUIREMENTS

An involuntary petition differs from a voluntary petition in that it is a "contested matter". Accordingly this section has been devoted to involuntary petitions in order to address the differences in forms and requirements.

An involuntary petition may be commenced only under chapter 7 or chapter 11, and only against a person, except a farmer or corporation that is not a moneyed, business, or commercial corporation, that may be a debtor under the chapter under which such case is commenced (11 U.S.C. § 303). The exception that a husband and wife may file a joint petition applies to voluntary petitions only.

Official form B5 is to be used in every involuntary case, including a partnership. The form provides space for the signature of the attorney and the petitioning creditors. Furthermore, the advisory committee note to that form provides, in part: "Each petitioning creditor, by signing on the line provided, signs both the petition and the unsworn declaration which 28 U.S.C. § 1746 permits instead of verification. The addresses as well as the names of individuals signing the petition in a representative capacity are required, together with disclosure of which petitioner is represented by each signatory." Failure to sign the petition may constitute a serious defect in the filing. An involuntary case is commenced by three or more entities (petitioning creditors) with unsecured claims aggregating at least \$10,775.00 if the alleged debtor has 12 or more creditors, or, if there are fewer than 12 creditors, by one or more entities (petitioning creditors) that hold in the aggregate at least \$10,775.00 of such unsecured claims. As part of the filing requirement, the filing party must file with the involuntary petition a mailing matrix. Even though all creditors may not be known at the time of the filing, please submit at least the addresses of the petitioning creditor(s) and their attorneys on a matrix.

The filing fee for an involuntary chapter 7 case is \$175.00; the fee for an involuntary chapter 11 is \$830.00. Upon filing, the clerk's office will assign a case number to the involuntary petition; however, no appointment of a trustee is made until an order for relief has been entered.

The clerk's office will furnish the filing party with copies of the involuntary petition along with copies of the Summons to Debtor for the filing party to serve. Additionally, the filing party will receive an instruction letter along with the summons. Service of the summons must be made within ten (10) days following the issuance of the summons. The party should file a proof of such service with the court. If a summons is not timely delivered or mailed, the party should write a letter to the court asking for reissuance of the summons.

The party should monitor the matter for default. Should an answer be filed, the clerk's office will schedule the matter for hearing. Upon default, an order for relief against the debtor will be entered and it will set requirements for filing schedules and statements. If the court dismisses the case at this point, the order for relief will not be entered. If the court enters an order for relief, a § 341 meeting will be set and, in a chapter 7 case, a trustee will be appointed. The case then follows the normal procedures for a case filed under chapter 7 or chapter 11.

E. ADVERSARY PROCEEDINGS

An adversary proceeding (also known as a complaint) is governed by the 7000 series of the FRBP. SC LBR 7005-1, 7016-1, 7026-1 are applicable as well as many of the Federal Rules of Civil Procedure and the Federal Rules of Evidence.

Adversary proceedings are assigned a number separate from the case number which must be used in conjunction with the related bankruptcy case number in the caption of all adversary proceedings. Captions of adversary proceedings should clearly reflect the name of the debtor, plaintiff, and defendant (See Official Bankruptcy Form 16C).

The filing fee is \$150 pursuant to the Appendix to 11 U.S.C. § 1930. If the United States or a debtor is the plaintiff, no fee is required. If a trustee is the plaintiff, the fee is payable only from the estate. If the fee is not submitted at the time the complaint is filed, an affidavit should accompany the adversary proceeding which attests to the reason the fee is absent. The complaint should be accompanied by an adversary proceeding cover sheet. The plaintiff should indicate the nature of the suit on the adversary cover sheet; cover sheets can be obtained from the clerk's office.

Pursuant to FRBP 5003(d), the clerk's office is required to maintain an index of all adversary proceedings which is captured in the BANCAP system, and any party can search by case number or name of the debtor, and/or plaintiff/defendant.

Pursuant to FRBP 7001, an adversary proceeding must be filed when a party seeks:

1. To recover money or property, except a proceeding to compel the debtor to deliver property to the trustee, or a proceeding under § 554(b) or § 725 of the Code, FRBP 2017, or FRBP 6002.
2. To determine the validity, priority, or extent of a lien or other interest in property, other than a proceeding under FRBP 4003(d).
3. To obtain approval pursuant to § 363(h) for the sale of both the interest of the estate and of a co-owner in property.
4. To object to or revoke a discharge.
5. To revoke an order of confirmation of a chapter 11, 12 or 13 plan.

6. To determine the dischargeability of a debt.
7. To obtain an injunction or other equitable relief.
8. To subordinate any allowed claim or interest, except when subordination is provided in a chapter 9, 11, 12, or 13 plan.
9. To obtain a declaratory judgment relating to any of the foregoing.
10. To determine a claim or cause of action removed pursuant to 28 U.S.C. § 1452.

Please note that the clerk may refuse to file an adversary proceeding if it is not accompanied by the proper filing fee. There will be delays in the processing of pleadings that do not reflect proper captions, adversary proceeding and related bankruptcy case numbers, and those which fail to cite applicable Rules and/or Code sections regarding the relief sought by the movant. It should also be noted that a complaint and subsequent pleadings filed relating to dischargeability of debts should be served upon the United States Trustee in accordance with SC LBR 2002-1.

FRBP 7008 makes FRCP 8 applicable to adversary proceedings. General requirements as to the content of the complaint are specified in these rules and include:

1. A statement of the grounds (applicable Code sections) upon which the court has jurisdiction. The statement must also contain a reference to the name, number, and chapter of the case to which the adversary proceeding relates and to the district and division where the case under the Code is pending;
2. A short and plain statement of the claim;
3. A demand for judgment for the relief the pleader seeks and;
4. In an adversary proceeding before a bankruptcy judge, a statement regarding whether the proceeding is core or non-core, and if non-core, whether the pleader does or does not consent to entry of final orders or judgments by the bankruptcy judge.

28 U.S.C. § 157 distinguishes between "core" and "non-core" proceedings. Parties to an adversary proceeding are required to designate in their initial pleadings whether a proceeding is core or non-core. This designation is necessary to the judges and the clerk's office in determining how to process and handle final orders and rulings of the court.

Service Under FRBP 7004(b)(4),(5): Subsections (4) and (5) of FRBP 7004 address service of a summons and complaint (and in a contested matter, the motion (see FRBP 9014)) on the United States or any officer or agency of the United States. Plaintiffs, or moving parties, frequently fail to effect service in accordance with these subsections. The most common defect is that service is not made on the Attorney General of the United States nor on the officer or agency involved--usually the United States Attorney for the district is served. Of course, there may be other parties who should also be served, such

as the trustee, and that is a determination for the plaintiff or the moving party to make. Failure to effect such service could render any order issued on the objection invalid should the party not served subsequently file a motion under FRCP 60.

After the adversary proceeding is filed, the clerk's office issues a summons. A summons is only valid for ten (10) days following its issuance FRBP 7004(e)). If the ten (10) day period has passed without the summons being served, the plaintiff should request, in writing, that the summons be reissued.

According to FRBP 7015 an amended complaint may be filed any time before an answer has been filed, or upon consent of all parties or with leave of the court. If an answer or motion to dismiss has been filed, a complaint can be amended only by leave of the court or by written consent of the adverse party. If a party seeks leave of the court to file an amended complaint, a motion should be filed and the amended complaint should be attached as an exhibit. All amended complaints are "RECEIVED" rather than "FILED" in the clerk's office until the case administrator has determined the status of the adversary proceeding. If an order of the court is required for the amended complaint to be filed (i.e., the amended complaint is submitted after an answer has been filed), it will be filed and entered on the docket only after the order is entered.

Attorneys should also be aware of FRBP 7004 and FRCP (4)(m) as it applies which specifies that if service of the summons and complaint is not made upon a defendant within one hundred and twenty (120) days after the filing of the complaint, and the party on whose behalf such service was required cannot show good cause why such service was not made within that period, the action shall be dismissed as to that defendant without prejudice upon the court's own initiative with notice to such party or upon motion. Also, SC LBR 7016-1 provides that the adversary proceeding may be dismissed by the court within 30 days after the filing of the complaint for lack of prosecution where no service of process has been made and the original or reissued summons has expired. The notice to the plaintiff's attorneys regarding service of the summons includes notice that the adversary will be dismissed without further notice if no certificate of service or affidavit of default is filed within one hundred and twenty (120) days of the filing of the complaint, or if the original or reissued summons and complaint has expired, within thirty (30) days after the filing of the complaint.

FRBP 7055 (and FRCP 55) provides the procedure for defaults and default judgments. The clerk plays a major role in entering defaults and, in certain circumstances, the clerk can sign and enter default judgments. If the defendant has failed to respond, plaintiff should file an affidavit of default, which sets forth the following facts:

1. The date of issuance of summons;
2. A statement of whether the court fixed a deadline for the filing of an answer or motion, or whether the 30 (or 35) day limit applies;
3. The date of service of complaint;
4. The date of filing of affidavit of service or certificate of mailing;

5. A statement that defendant is not an infant or incompetent person, nor has been in the military service of the United States since the filing of the suit or for a period of six (6) months prior to such filing;
6. A statement that no answer or motion has been received within the time limit.

If the affidavit of default does not set forth the above facts, the clerk's office will send notification of an insufficient affidavit of default and will give the party fifteen (15) days to submit a complete affidavit. This will delay the entry of the default and the default judgment.

The clerk's office will monitor the filing of answers or other responsive pleadings and either a pre-trial conference will be scheduled or a scheduling order may be entered after their filing.

If only a pre-trial notice is issued, at the pre-trial conference the attorneys will advise the court of the time required to complete discovery, and will give an indication as to when the trial can be held and the length of time required for trial. Alternatively, in accordance with FRCP 16 and FRBP 7016, the court may issue a scheduling order setting pre-trial date and fixing dates to file motions and discovery which sets the time to: 1) join other parties and to amend the pleading, 2) complete discovery, 3) file and hearing motions and 4) sets the date for the pre-trial conference.

Also in accordance with FRCP 16 and FRBP 7016, the court may enter a scheduling order setting final pre-trial and fixing dates to file motions and discovery at the pre-trial conference that limits the time for: 1) to join other parties and to amend the pleadings, 2) to file and hear motions, and 3) to complete discovery. This scheduling order will also fix the date of the final pre-trial conference and the date of the trial.

Attorneys should consult and be prepared to submit proposed deadline dates at the pre-trial conference to aid the court in entering a scheduling order. These form scheduling orders may be obtained from the clerk's office upon request. Parties should note that the notice of pre-trial conference and the scheduling orders setting the pre-trial and final pre-trial conferences provide that the trial may take place immediately following the pre-trial conference. Counsel for all interested parties must attend the scheduled pre-trial conferences unless excused by the court.

Should the adversary be ready for trial, a scheduling order will be issued setting the trial date and setting forth requirements for preparation and filing of a joint pre-trial order.

There are certain time constraints when filing an adversary proceeding pursuant to § 523 and § 727 of the Bankruptcy Code. FRBP 4004(a) specifies that in a chapter 7 case a complaint objecting to the debtor's discharge under § 727(a) be filed not later than sixty (60) days following the first date set for the meeting of creditors; in a chapter 11 case, such complaint shall be filed not later than the first date set for the hearing on confirmation. It is the practice of this court to set the last day for filing objections to the debtor's discharge under § 727(a) as sixty (60) days following the first date set for the meeting of creditors in all

chapter 7 and chapter 11 cases (in which the debtor is an individual). FRBP 4007(c) specifies that in a chapter 7, 11 and 12 case a complaint to determine dischargeability of any debt pursuant to § 523(c) shall be filed not later than sixty (60) days following the first date set for the meeting of creditors. The last day to file objections to discharge and complaints to determine the dischargeability of debts is set sixty (60) days following the first date set for the meeting of creditors in cases in which the debtor is an individual in the notice of commencement of case, meeting of creditors and fixing of dates (§ 341 meeting of creditors notice). The specific dates are clearly shown on the notice of commencement of case. If a meeting of creditors is continued or rescheduled, the deadline does not change.

The party initiating an adversary proceeding (Bankruptcy Rule 7004) or a contested matter (Bankruptcy Rule 9013) against an insured depository institution shall make service on insured depository institutions by certified mail when that service is required by Bankruptcy Rule 7004(h).

(For additional information on this topic, see **V. R. SUBPOENAS** on page 58).

F. AMENDED DOCUMENTS

Should be captioned as "Amended", e.g. "Amended " (if several amended plans have been filed, they should specify "Second Amended Plan, Third Amended Plan").

G. AMENDMENTS TO OPEN, PENDING CASES

Copy requirements - Chapter 7 - original plus 2
 Chapter 13 - original plus 1
 Chapter 11 - original plus 1
 Chapter 12 - original plus 2

1. Amendments Adding Creditors

- a. Must be signed by debtor;
- b. Must be accompanied by a \$20 filing fee pursuant to 11 U.S.C. § 1930;
- c. Must be accompanied by a certificate of service to new creditors indicating service of the amendment, the § 341 meeting notice, the discharge and any other document which may affect the creditor.

2. Amendment to or Amended Schedules

- a. If amending schedules to add creditors - follow steps in 1 above.
- b. A chapter 7 no asset case may not be reopened to amend to add creditors . Refer to the court's ruling in In re Gardner, 194 B . R. 576 (Bkrtcy.D.S.C. 1996).
- c. If amending schedules without adding creditors, the debtor must sign the amendment and the certificate of service should indicate service of the

amendment on creditors affected by it.

3. Schedules Filed after the Petition

- a. If the schedules are being filed after the petition has been filed, and there are additional creditors to those on the matrix or list filed with the petition, follow 1 above. A supplemental mailing matrix or list of creditors containing fewer than ten creditors, or a supplemental matrix in a chapter 13 case, must be submitted with a hard copy in a scannable format. A supplemental mailing matrix or list of creditors containing ten or more creditors in a chapter 7, chapter 11, or chapter 12 case must be submitted on a computer diskette. SC LBR 1007-1 governs requirements for lists of creditors.

4. Amended Schedules Due following a Conversion

- a. If amended schedules with additional creditors are due pursuant to an order converting the case from one chapter to another, follow steps in 1 above.

5. Amending Voluntary Petition

- a. Unless you are amending the voluntary petition itself, **do not** file another petition.

H. GENERAL INFORMATION

When documents are filed with the court, the original should always be placed on top with copies attached. Documents should be submitted in complete packages to ensure proper filing. (e.g. original motion, memorandum, affidavit, and certificate of service together, then copy of motion, memorandum, affidavit, certificate of service; then the second copy of motion, memorandum, affidavit certificate of service, etc.)

With regard to copy requirements, see SC LBR 5005-1 and

[Exhibit 9 – Clerk's Instruction 5005-1: Filing of Documents in Clerk's Office on page 105.](#) Documents submitted for filing should never be duplexed (copied on both sides).

A bankruptcy case number consists of the year of filing, five sequential digits and a letter designating the judge to whom the case is assigned (D for Judge Davis, B for Judge Bishop, and W for Judge Waites). Bankruptcy cases filed from 1992 through 1996 have the number 7 as the first of five digits following the year. (Example: 92-70001-D, 97-00001-D). An adversary proceeding number consists of the year of filing, the number 8 is used as the first of the 5 digits following the year. Previously, the adversary number consisted of the number 8 and three additional digits following the case year. (Example: 96-8001, 97-80001).

The judge's initial should be included in the case number (97-00001-D; 97-00001-B; 97-00001-W).

The captions on documents should be formatted to allow space in the top right corner for the "FILED" or "ORIGINAL FILED" stamp.

All documents should be submitted with a two-hole punch, centered at the top of the document.

Copy Requirements: Always include an additional copy with the required number of copies if the filing party wants a copy returned with the filing date noted on it.(SC LBR 5005-1 and Exhibit 9 – Clerk's Instruction 5005-1) Also, be sure to include a self-addressed stamped, return envelope, which will accommodate the size of the document, for each document submitted.

All documents should include attorney's name, firm name, address, telephone number, facsimile number and district court ID number. (Required by SC LBR 9010-1)

When filing documents in cases scheduled for an imminent hearing or motions for emergency hearings, attorneys should attach the fluorescent paper (available at the Intake Counter) to the top of the document to alert the Intake Division that the document is in a case scheduled for court or is a motion for an emergency hearing.

All documents should be filed with the court immediately upon service or as soon after service is effected as possible. This eliminates our receiving objections/responses to documents that have not yet been filed.

Local Bankruptcy Rules may be obtained from the clerk's office either at the intake counter on diskette (in a WordPerfect 6.1 file), via mail, or WEB Page. Only a limited number of paper copies of the rules will be available. If you request a hard copy set of local rules through the mail, please send a self-addressed envelope, 8 1/2 x 11, with appropriate postage posted on the envelope (Postage amount may change as new local rules are revised; therefore, check with the Intake Division to determine the appropriate amount of postage -- presently the postage fee is \$3.00). The rules will no longer have forms as exhibits. Any form which is required to be used in conjunction with a local rule will be denominated a "Local Official Form", and will be assigned a number corresponding to the rule. Many rules have been shortened so that they simply state the requirement for an action and authorize the issuance of a clerk's instruction to give detailed procedural information, and these will also be numbered to correspond to the rules.

Attorneys should continually review the Internet Web Site for updated versions of the Local Bankruptcy Rules. Any amendments to the rules are noticed to the bar and public.

Attorneys should also review the bulletin board in the Intake Division of the clerk's office or the WEB page for any public notices or new operating orders.

Filing parties should check documents to make sure that they have the correct case number

and debtor's name.

It is the filing party's responsibility to determine if the case is closed or dismissed prior to submitting documents for filing.

Document titles should indicate what the entire document is about (e.g. in the prayer, moving party asks to dismiss or convert, yet the document title states only "Motion to Dismiss").

III. AUTOMATION SERVICES

The United States Bankruptcy Court for the District of South Carolina has a number of automated services for public access to court records and these are regularly being updated and enhanced. The current Voice Case Information System (VCIS) and Public Access to Court Electronic Records (PACER a/k/a "PACER Classic") remain as they always have. There is no access fee for VCIS; the 60¢ per minute access fee for PACER Classic remains in effect.

During calendar year 1999, two new Internet based services are going to be introduced. The first, www.scb.uscourts.gov is a free site (has no access fee by the judiciary). This site will contain information about the court, court calendars, local rules, official forms, clerk's instructions, etc. The current Bulletin Board System (BBS) will be discontinued in September 1999, and its features will be incorporated into this free site.

The second Internet based service, WEB PACER, will offer similar functionality to the current PACER Classic system, but will use a web browser over the Internet. This site will charge an access fee of 7¢. In September, the current Intranet web based imaging system will be discontinued and WEB PACER will be required for case document image access, i.e., users will need an Internet service provider to view documents. (For additional information on this topic, see **VI. Exhibit 8 – Clerk's Instruction 5001-1: Automation Services on page 95**).

A. *Pacer Classic*

Pacer (Public Access to Court Electronic Records) allows you to retrieve electronic docket summaries using your computer or terminal modem (up to 33.6K baud) in your office or home virtually 24 hours a day. You can search for a case by participant name or case number. Once you find the case you want, you can have all the basic case information and a listing of the case docket entries. You can track the progress of a case in seconds. All case information entered during the day is updated into PACER that night. Case information for active and recently closed cases is available, without making telephone calls or trips to the court.

PACER FEATURES

- Access to daily case report of new bankruptcy filings
- PACER/Court News
- Retrieve official registry of claims/interests for a case (updated weekly)
- View docket entries in reverse chronological order
- Select, if desired, only a portion of lengthy docketed cases
- Access to archived case summary information
- Local Rules
- Clerk's Instructions
- Attorney Desk Reference Manual

We encourage you to consider registering for PACER. It will save much time and will permit you to "track" a case on your own PC. You will be able to determine whether an order you are interested in has been docketed -- if not, you can check again the next day. The cost for this service is 60¢ per minute (established by the Judicial Conference of the United States) -- you should be able to download 3-4 cases from PACER per minute. To register, contact: PACER Billing Center, PO Box 780549, San Antonio, Texas 78278-0549 (telephone: 1-800-676-6856). You will receive your PACER system Login ID and Password, billing information and PACER User Documentation directly from the Billing Center. PACER is available at many appellate, district and bankruptcy courts -- a list of those courts and access telephone numbers is available from the Intake Division of the clerk's office. Billing procedures vary and in some courts there is currently no charge for PACER.

The requirements for PACER are as follows:

Personal Computer

Modem

Communications Software (Hyperterminal, PCAnywhere, ProComm, etc)

PACER Account (available from San Antonio Billing Center 800-676-6856)

The cost is 60¢ per minute and has been available since 1993.

B. Web Pacer

Web Pacer is accessible via the World Wide Web at pacer.scb.uscourts.gov.

The features include:

Case Information

Summary

Docket Sheet

DOCUMENT IMAGES*

Case Status

Parties

Deadlines/Schedules

New Cases Report

User selectable date range

Mailing Matrices

The requirements for Web Pacer are as follows:

PC with Windows 95+ or NT

PACER Account (available from San Antonio Billing Center 800-676-6856)

Internet Access

Web Browser (such as Netscape or Internet Explorer)

The cost is 7¢ per page and has been available since 6/1/1999.

The Document Images Feature will be available on 9/1/1999.

* The court has implemented a document imaging system. Basically, users of the imaging system will be able to see a "picture" of any imaged document. All documents filed after

January 1, 1997, in Bankruptcy cases and Adversary proceedings will be imaged, except claims in chapter 7 no asset cases and chapter 13 cases, and correspondence in all cases. Claims filed in chapter 7 and 11 cases will also be imaged. The public may access these images while at the courthouse and on the WEB PACER.

C. *Internet Web Site*

The Internet Web Site is accessible via the world wide web at www.scb.uscourts.gov .

The features are as follows:

Local Rules

Clerk's Instructions

Attorney Desk Reference Manual

Judge's Opinions

Court Info (Phone Numbers, Clerks Instructions, etc)

Judge's Court Calendar

362 Motions Calendar

Passive Notice Calendar

Downloads (Adobe Reader, PaperPort Viewer, Forms, Reference Manuals, etc)

The requirements for the Internet Web Site are as follows:

PC with Windows 95+ or NT

Internet Access

Web Browser (such as Netscape or Internet Explorer)

The cost is free and it is available now. The Judge Opinions will be available at a later time

D. *VCIS (Voice Case Information System)*

Bankruptcy case information available using touch tone phone. You may search for information by Case Number, Party Name, or SSN/Tax ID by using telephone numbers 803-765-5211 or 1-800-669-8767. There is no cost for this feature and it is available now.

The features include:

Case Name(s)

Case Number

Bankruptcy Chapter

Filing Date

Asset Status

Attorney for Debtor

Name of Trustee

Name of Judge

Current Case Status

Next Hearing Info

Discharge Date

Closing Date

IV. MOTIONS

A. ***MOTIONS/APPLICATIONS (MISCELLANEOUS)***

FRBP 9013/ SC LBR 9013-1

All attorneys for the movants or pro se movants must list his/her full name, address, telephone number, and district court identification number on each pleading.

Copy requirements - Chapter 7 - original plus 2
 Chapter 13 - original plus 1
 Chapter 11 - original plus 1
 Chapter 12 - original plus 2

All motions/applications should be served on all interested parties. (For additional information on this topic see **V. K.** [OBJECTIONS on page 53](#)).

B. ***ABANDONMENT OF PROPERTY (FRBP 6007, SC LBR 6007-1)***

Estate property may be abandoned using the passive notice procedure prescribed by SC LBR 9014-2 and the accompanying "Clerk's Instruction: Motions (Passive Notice) (CI-9014-2), and must include the appropriate Local Official Forms (6007-1(a) and 6007-1(b). These must be served on the United States Trustee, all creditors, indenture trustees, and committees elected pursuant to 11 U.S.C. § 705 or appointed pursuant to 11 U.S.C. § 1102 of the Bankruptcy Code. Local Official Form 6007-1(c) should be submitted when the debtor, trustee and secured creditor consent to, and seek court approval of, a modification of stay in addition to abandonment.

In any case in which a trustee has been appointed and in which the notice of meeting of creditors (§341 notice) gives notice that estate property may be abandoned at the meeting, the trustee may abandon property. To accomplish this, the trustee must announce the abandonment at the meeting of creditors and hear no objections. The trustee must identify the property abandoned at the meeting of creditors on the trustee's minute sheet. If the debtor, trustee and secured creditor consent to abandonment of property and to modification of the automatic stay and the property was abandoned by the trustee at the meeting of creditors, an order conforming to Local Official Form 6007-1(d) may be submitted to the court. (For additional information on this topic, **VI.** [Exhibit 11 – Clerk's Instruction 9014-2: Motions on Passive Notice on page 115](#))

C. CONSOLIDATED AND JOINTLY ADMINISTERED CASES

Copy requirements - Chapter 7 - original plus 2
Chapter 13 - original plus 1
Chapter 11 - original plus 1
Chapter 12 - original plus 2

See SC LBR 1015-1 and SC LBR 2002-1 for service requirements.

May be noticed using a "Passive Notice."

After payment of the filing fee for the petition for relief in the separated cases, only one fee is due for subsequent documents filed in consolidated or jointly administered cases. (i.e., a motion for relief from stay would require only one fee).

A separate, original motion to consolidate along with a certificate of service must be filed in each case to be consolidated. The case captions should not be consolidated until the motions in each case have been granted. A passive notice of the motion should be filed in each case that is to be consolidated. (For additional information on this topic, see **VI. Exhibit 11 – Clerk's Instruction 9014-2: Motions on Passive Notice on page 115**).

If orders are entered consolidating or jointly administering the cases, one case becomes the lead case (usually the first filed case) and all future documents will be filed and docketed in the lead case only.

D. CONVERSIONS

CODE ' ' 706, 1112, 1208, 1307. FRBP 1017, 1019

Copy Requirements - Chapter 7 - original plus 2
Chapter 13 - original plus 1
Chapter 11 - original plus 1
Chapter 12 - original plus 2

A fee of \$400 is due to convert a chapter 7 or chapter 13 case to chapter 11 upon the debtor's motion; there are no fees due for converting cases in other situations.

Upon the filing of a motion to convert a case to chapter 7 of the Bankruptcy Code, the movant shall pay \$15 to the clerk of court for payment to trustees serving in cases as provided in 11 U.S.C. § 330(b)(2). Upon the filing of a notice of conversion pursuant to § 1208(a) or § 1307(a) of the Code, \$15 shall be paid to the clerk of the court for payment to trustees serving in cases as provided in 11 U.S.C. § 330(b)(2). If the trustee serving in the case before the conversion is the movant, the fee shall be payable only from the estate that exists prior to conversion.

If an application to pay the filing fee in installments was granted when the case was filed

and if any portion of that filing fee remains UNPAID at the time of the conversion, the debtor must submit another application to pay the fee in installments under the new chapter or pay the remainder of the original fee upon conversion.

E. EMERGENCY OR EXPEDITED HEARINGS AND MOTIONS

FRBP 9011 and SC LBR 9010-1 require an attorney to list his/her name, address, telephone number, facsimile number, and District Court identification number under the signature on every document filed with the court.

Motions for emergency or expedited hearings must be filed pursuant to FRBP 9013 and SC LBR 9013-1. The motion must specify in the caption that an emergency or expedited hearing is sought and must be accompanied by a certification of necessity for emergency hearing using Local Official Form 9014-1. The certification must include a statement as to the specific irreparable harm which will be caused if the motion is not granted, not just a statement that irreparable harm will occur (subpart (4) of the last paragraph of the form). Please specify in the motion for emergency hearing the time frame within which you are requesting the substantive motion be set. Upon filing of the motion for emergency hearing, the clerk's office will take steps immediately to bring the motion to the attention of the appropriate judge. It is not necessary, after filing such a motion, to call the clerk's office to see when the motion will be set for hearing. The clerk's office will expeditiously handle all properly identified motions for emergency hearing and will contact the movant after obtaining a determination on said motion from the judge. The movant, upon filing of the emergency motion, should be prepared to serve the notice of hearing on all applicable parties by mail, and in certain instances, by telephone or facsimile transmission, if the motion is granted. The certificate of mailing and/or the certificate of telephone/facsimile notice must be filed prior to the expedited hearing.

As noted in the local rule, any party failing to comply with this procedure may be denied the opportunity to appear and be heard in the proceedings before the court.

F. LIEN AVOIDANCE MOTIONS

FRBP 3015, 4003/SC LBR 3015-1, 4003-1

Copy requirements - Original

The motion to avoid lien is one of the most common motions filed by a debtor. **(NOTE: In chapter 13 cases these motions are included with the plan in a single document titled "Notice, Chapter 13 Plan and Related Motions").**

In a chapter 7, 11, or 12 case, in order to avoid a lien pursuant to 11 U.S.C. § 522(f) the debtor shall submit for filing the motion, passive notice, certificate of service, proposed order, and a self-addressed stamped envelope for each creditor listed and for the debtor or debtor's attorney. The passive notice procedure prescribed by SC LBR 9014-2 and the accompanying Clerk's Instruction: Motions (Passive Notice) (CI-9014-2) must be used.

The above-referenced documents must conform to Local Official Forms 9014-2(a), 4003-1(a), 4003-1(b), 4003-1(c), and/or 4003-1(d). Failure to submit all documents specified above is possible cause for the court to enter an order striking the document.

In a chapter 13 case, in order to avoid a lien pursuant to 11 U.S.C. § 522(f), the debtor shall include such motion in the Notice, Chapter 13 Plan and Related Motions, pursuant to SC LBR 3015-1 and the exhibits thereto. See SC LBR 3015-1 for further requirements.

The clerk's office will monitor the time for objections and, if none are filed after the objection time has run, will process the proposed order. If objections are timely filed, the hearing will be held as noticed.

G. MOTIONS FOR MORATORIUM ON PAYMENTS UNDER CONFIRMED CHAPTER 13 PLANS

Motions for moratorium should be noticed using a passive notice. (For additional information on this topic, see **VI. Exhibit 11 – Clerk's Instruction 9014-2: Motions on Passive Notice** on [page 115](#)).

Copy Requirements - original plus 1

H. REOPENING CASES

FRBP 5010/ SC LBR 5010-1

Filing fees prescribed by 28 U.S.C. § 1930(a) must be collected upon the filing of a motion to reopen a Bankruptcy Code case, unless the reopening is to correct an administrative error or for actions related to the debtor's discharge.¹ If a motion to waive the fee is filed, it must cite the circumstances warranting the waiver. If a motion to reopen a Bankruptcy Code case is filed for any other purpose, the appropriate fee to be charged is the same as the filing fee in effect for commencing a new case on the date of the filing of the motion to reopen the case.

Requirements: A motion to reopen the case, a fifteen (15) day passive notice (using the procedure prescribed by SC LBR 9014-2 and the accompanying Clerk's Instruction) showing service to the United States Trustee, the previously appointed trustee, all creditors and parties in interest (including any creditor to be added by amendment to the original petition, schedules or statements). Local Official Form 5010-1 must also be included.

¹ No fee required if reopening is to correct an administrative error or for actions related to the debtor's discharge, i.e., issuing restraining orders or for other proceedings in connection with a discharge granted in the original case. (NOTE: An "administrative error" can only be made by the court itself or the clerk's office).

Chapter 7 - original plus 2
Chapter 13 - original plus 1
Chapter 11 - original plus 2
Chapter 12 - original plus 2

The fifteen (15) day period for the filing and serving of responses, returns and/ or objections will be monitored and an order entered, after the objection period has passed , if no objections or responses were filed with the court. If a timely objection is filed, the hearing will be held at the time previously noticed.

Appointment of Trustee in Reopened Cases: FRBP 5010 provides: "A case may be reopened ... pursuant to § 350(b) of the Code. In a chapter 7, 12, or 13 case a trustee shall not be appointed by the United States trustee unless the court determines that a trustee is necessary" Motions to reopen cases should include a statement regarding the necessity for the trustee to be reappointed if the motion is granted.

If a rescheduled § 341 meeting of creditors is necessary, the attorney for the debtor, or the debtor if pro se, shall, within five (5) business days of the entry of the reopening order, contact the Intake Division of the clerk's office, and obtain the date, time, and location for the rescheduled meeting. The attorney for the debtor, or the debtor if pro se, shall give written notice to all parties in interest of the rescheduled meeting, and file proof of the service of such notice with the clerk.

Absent extraordinary circumstances, the court will not allow the reopening of a case in a chapter 7 no asset for the purpose of amending the petition to add creditors, nor in a case for the purpose of filing a reaffirmation agreement which has been entered after the granting of the discharge. Parties filing motions to reopen may wish to review the court's ruling in In re Thomas Edgar Gardner Case No. 93-72699-W (Mar. 6, 1996).

The case number assigned to the bankruptcy case when it was filed is used when the case is reopened.

If the moving party anticipates filing a subsequent proceeding (adversary proceeding, etc.), the case must be reopened via entry of an order prior to the court considering other documents.

Usually a "motion to reopen" should be filed if the case has been CLOSED. A "motion to reconsider" should be filed if the case has only been DISMISSED and not statistically closed. There is a difference between dismissal of a case and closing. Please determine whether the case is dismissed or closed.

I. SEPARATION OF CASES

SC LBR 1015-1

When a debtor in a case filed originally by a joint petition (husband and wife) seeks to be separated from that case and be a debtor under a separate case, the debtor shall:

- 1) File a motion to separate the joint case into two cases and give written notice of such motion to the parties in interest in the joint case using the passive notice procedure prescribed by SC LBR 9014-2 and the accompanying Clerk's Instruction: Motions (Passive Notice) (CI-9014-2). If the motion is granted, the joint case will be separated upon the payment by the moving debtor of the appropriate fee. The new case number will be assigned to the debtor moving to separate the case unless otherwise ordered by the court.
- 2) If the debtor seeks conversion to a different chapter than the chapter under which the joint case was filed, a motion to convert must also be filed. If the joint case was filed as a chapter 13 case and the separating debtor seeks conversion, the court will consider the motion to separate before the conversion can occur.

The order separating a previously filed joint case into two separate cases shall not affect the date of the order for relief, or any substantive rights of the creditors of the different estates. If one of the cases is converted to a different chapter than that under which the joint case was filed, the order for relief is governed by 11 U.S.C. § 348. If new schedules are required to be filed, a subsequent order will be issued. These schedules vary depending upon the chapter of the original case and whether or not the separated case is converted to a different chapter. The order granting the separation will specify what additional documents are required, and failure to file them within the time specified may result in the trustees' moving to dismiss for failure to comply with the order.

J. § 362 MOTIONS - RELIEF FROM THE AUTOMATIC STAY (11 U.S.C.)

FRBP 4001/SC LBR 4001-1

Copy Requirements - original

Requires \$75.00 Filing Fee (Unless motion is to approve an agreement).

A motion for relief from the automatic stay provided by § 362(a) of the Code must be made in accordance with FRBP 9014, SC LBR 4001-1, Local Official Forms 4001-1(a), 4001-1(b), and accompanying Clerk's Instruction: Proceedings to Modify Stay (CI-4001-1). A motion to terminate, annul, modify, or condition the automatic stay provided under § 362(a) must be accompanied by a filing fee of \$75.00, a completed certification of facts, a hearing notice (completed by the moving party), and a certificate of service. The fee need not be paid if a motion is filed for approval of an agreement or a stipulation to the termination, annulment, modification, or conditioning of the automatic stay (i.e., a consent order). There are stringent time requirements related to a motion for relief from stay. The stay of any act against property of the estate under § 362(a) expires as to the party making the request thirty (30) days after a motion for relief is made unless the court, before that time and after notice and hearing, orders such stay continued in effect pending the conclusion of, or as a result of, a final hearing and determination. If the hearing held within the thirty (30) day period is determined to be a preliminary hearing, then the final hearing must be

commenced not later than thirty (30) days after the conclusion of the preliminary hearing. Motions for relief from stay must be given priority in scheduling and calendaring so that the deadlines imposed by the Code and Rules are met. In order to ensure compliance with the deadlines, the court has adopted SC LBR 4001-1 which imposes special time requirements for service of the motion and for any reply in opposition to the motion. Motions for relief from stay are heard in the division in which venue lies. Please note FRBP 7004(b)(9) which applies to § 362 motions requires service of contested matters upon the debtor, and if represented by an attorney, to the attorney at his post office address. (For additional information on this topic, see **VI. Exhibit 7 – Clerk’s Instruction 4001-1: Proceedings to Modify Stay on page 91**).

K. MOTION TO ESTABLISH VALUE OF A CLAIM PURSUANT TO 11 U.S.C. § 506(b)

FRBP 3012, 3015/SC LBR 3012-1, 3015-1

(NOTE: In chapter 13 cases these motions are included with the plan in a single document titled "Notice, Chapter 13 Plan and Related Motions").

Copy Requirements - Original

The motion must be signed by the debtor and the debtor's attorney.

In a chapter 11 or 12 case, a party in interest seeking a determination of the value of a claim secured by a lien on property in which the estate has an interest pursuant to 11 U.S.C. § 506(a) and FRBP 3012 must use the passive notice procedure prescribed by SC LBR 9014-2 and the accompanying Clerk’s Instruction: Motions (Passive Notice) (CI-9014-2). Stamped envelopes addressed to each creditor named in the motion and to the debtor or the attorney for the debtor must be submitted with the motion, notice and certificate of service

The following must be submitted simultaneously to the clerk:

1) A passive notice (See Local Official Form 9014-2(a)); 2) A valuation motion signed by the movant’s attorney and verified by the movant containing an acknowledgement that both movant and movant’s attorney have read FRBP 9011 (See Local Official Form 3012-1(a)); 3) A proposed order (See Local Official Form 3012-1(b)); 4) A certificate of service of the above documents upon the holder of the secured claim (if the holder is not the movant), the debtor (if the debtor is not the movant) and any trustee serving in the case. An order striking document may be entered if all documents are not submitted.

The clerk's office will monitor the time for objections and, if none are filed after the objection time has run, will process the proposed order. If objections are timely filed, the hearing will be held as noticed.

In a chapter 13 case, a debtor seeking a determination of the value of a claim secured by a lien on property in which the estate has an interest pursuant to 11 U.S.C. § 506(a) and FRBP 3012 must include a motion for such relief in the Notice, Chapter 13 Plan and

Related Motions, pursuant to SC LBR 3015-1.

In a chapter 7 case, a debtor may not seek a determination of the value of a claim secured by a lien on property pursuant to 11 U.S.C. § 506(a) and FRBP 3012 for purposes of voiding the lien pursuant to 11 U.S.C. § 506(d). (See Dewsnvp v. Timm, 502 U.S. 410, 112 S.Ct. 773, (1992) and In re Virello, 98-03751-W (Bkntcy D.S.C. 3/31/99).

V. MISCELLANEOUS INFORMATION

All documents should be submitted in compliance with the Bankruptcy Code and Rules as well as the Local Rules, Clerk's Instructions, Local Official Forms, and operating orders.

A. APPEALS

Appeals are governed by the 8000 series of the FRBP. SC LBR 8006-1 is applicable. There is no Bankruptcy Appellate Panel in this district so all appeals are heard by the United States District Court for the District of South Carolina.

Pursuant to FRBP 8001 an appeal from a judgment, order or decree of a bankruptcy judge shall be taken by filing a notice of appeal with the clerk of the bankruptcy court within the time allowed by FRBP 8002. FRBP 8002 provides that the appeal shall be filed with the clerk within ten (10) days of the date of the entry of the judgment, order or decree. Entry of the judgment refers to entry of the judgment, order or decree on the docket by the clerk's office (it is not the date the order was signed or filed). It is the practice of this court to note clearly the date of entry on the docket on all judgments and orders. The "entered on docket" (E.O.D.) date is shown on the document by a stamp similar to the "FILED" stamp and is usually stamped in the upper right-hand corner of judgments and orders. FRBP 8002 was recently amended to provide "a notice of appeal filed after the announcement of a decision or order but before entry of the judgment, order or decree shall be treated as filed after such entry and on the day thereof". Thus, if a notice of appeal is filed based on an oral ruling of the court, it will be treated as being filed on the date the written order is ultimately entered.

The notice of appeal must be accompanied by a filing fee of \$105 (\$5 for the notice of appeal and \$100 for docketing) made payable to the Clerk, United States Bankruptcy Court (Appendix to 28 U.S.C. § 1930(b)). In accordance with FRBP 8001 the notice of appeal should contain the names of all parties to the appealed judgment, order or decree and the names, addresses, and telephone numbers of their respective attorneys. The number of copies of the notice of appeal filed should be sufficient to allow service by the clerk's office on each party named in the notice.

Pursuant to FRBP 8004 the clerk's office serves the notice of appeal by mailing a copy thereof to counsel of record for each party named in the notice of appeal, and if a party is not represented by counsel, to the party's last known address. The date of service and the parties served are noted in the docket by the clerk's office. This court has developed a letter which serves as the notice; the letter indicates the date of filing of the appeal along with other pertinent information such as how to obtain a transcript from the clerk's office. Pursuant to FRBP 9022, failure of the clerk's office to serve this notice shall not affect the validity of the appeal, thus parties should regularly monitor the various automated systems or the actual case file to ascertain whether a final order or Judgment has been entered. The court's form letter requests information from the parties as to whether or not there is, or ever has been, an appeal to the district court in any related case or adversary proceeding.

The clerk's office of the district court requires us to provide this information so the case can be assigned to the same district judge who heard any previous appeal in a related case or proceeding.

Pursuant to FRBP 8006 the appellant shall file within ten (10) days after the filing of the notice of appeal, a designation of the items (documents/pleadings in the case or adversary) to be included in the record on appeal, and a statement of the issues to be presented to the United States District Court. The appellant should serve the appellee(s) with a copy of the designation of record and statement of issues. Within ten (10) days after the service of the statement of the appellant, the appellee may file and serve on the appellant a designation of additional items to be included in the record on appeal. If the appellee has filed a cross appeal, the appellee, as cross appellant, must file and serve a statement of the issues to be presented on the cross appeal, and a designation of additional items to be included in the record. The filing fee for a cross appeal is \$105. FRBP 8006 was recently amended to include "any party filing a designation of the items to be included in the record shall provide to the clerk a copy of the items designated or, if the party fails to provide the copy, the clerk shall prepare the copy at the expense of the party." The clerk's office recommends that copies of the documents designated as the record be submitted simultaneously with the filing of the designation of the record. If it becomes necessary for the clerk's office to make copies of the documents, the party will be charged \$.50 per page.

If a party designates a transcript as part of the record, the party should immediately, after the filing of the designation, deliver to the court's electronic court recording operator, and file with the clerk, a written request for the transcript (Form AO435) and make satisfactory arrangements for payment of its costs. The recorder should file the transcript with the court within thirty (30) days of the request for the transcript. If the transcript cannot be completed within thirty (30) days of receipt of the request, the recorder should seek an extension of time from the clerk and the action of the clerk should be entered in the docket and parties notified in accordance with FRBP 8006.

When the record is complete for the purposes of appeal, the bankruptcy clerk will transmit the appeal to the clerk of the district court. In accordance with FRBP 8007 the bankruptcy clerk is required to transmit the following:

1. Items designated by the parties;
2. The notice of appeal;
3. The judgment, order or decree appealed from;
4. Any opinions, findings of fact, and conclusions of law of the court; and
5. A certified copy of the docket sheet.

Upon receipt of the record on appeal, the clerk of the district court is required to enter the appeal on the docket of the district court and give all parties to the appeal notice of the date on which the appeal was docketed. The appeal will be assigned a civil action docket number and assigned to a district judge.

FRBP 8003 specifies procedures for appealing from an order of a bankruptcy judge that is interlocutory (an order that does not finally dispose of the action). The party seeking leave to appeal must file a motion for leave to appeal. Upon the filing of the motion, accompanied

by certificate of service, the clerk's office will docket and monitor the motion, and after the response time of ten (10) days of service of the motion has expired, the motion for leave to appeal and any response will be transmitted to the district court clerk for disposition.

FRBP 8005 addresses how to proceed with a motion for stay pending appeal. A motion for a stay of the judgment, order or decree of the bankruptcy court, for approval of a supersedeas bond, or for other relief pending appeal must ordinarily be made in the first instance in the bankruptcy court. The bankruptcy court may suspend or order the continuation of other proceedings in the case or make any other appropriate order during the pendency of the appeal on such terms as will protect the rights of all parties in interest. A motion for stay may be made in the district court and not the bankruptcy court, but the motion must show why relief was not obtained from the bankruptcy court. The district court may condition the relief on the filing of a bond or other appropriate security with the bankruptcy court. The purpose of the bond is to indemnify the party who was successful in the bankruptcy court against loss caused by the attempt to gain a reversal in the appeal. When an appeal is taken by a trustee, a bond or other appropriate security may be required, but when an appeal is taken by the United States or an officer or agency thereof or by direction of any department of the government of the United States a bond or other security is not be required.

Procedures for dismissal of an appeal are set forth in FRBP 8001(c), and there are two categories: 1) before docketing; and 2) after docketing. If an appeal has not been docketed in the district court, the bankruptcy judge may dismiss the appeal: 1) upon the filing of a stipulation for dismissal signed by all the parties or, 2) on motion and notice by the appellant. If an appeal has been docketed, the clerk of the district court is required to enter an order dismissing the appeal if the parties to the appeal sign and file with the clerk's office an agreement that the appeal be dismissed and pay any court costs and fees that may be due. Voluntary dismissal after docketing may also be accomplished by motion of the appellant on terms and conditions fixed by the district court. (For additional information on this topic, see **VI. Exhibit 10 – Clerk's Instruction 8006-1: Records and Issues on Appeal on page 111**).

B. ARCHIVED AND CLOSED FILES

The clerk's office has a limited amount of storage space for closed bankruptcy case files, adversary files, and bankruptcy docket sheets. The clerk's office strives to retain locally closed files for one year after closing; all other files are shipped to the Federal Records Center (FRC), 1557 St. Joseph Avenue, East Point, Georgia. If the closed file has been shipped to the FRC, it will be necessary for a party requesting the file to pay the \$25 archive retrieval fee before the file can be ordered from the FRC. All requests for closed files should be made in writing and handled through the Intake Division of the clerk's office. Please note that a file ordered from Atlanta for viewing or copying will be returned to Atlanta. The clerk's office strives to send these back after two months. If the file needs to be kept for a longer period of time, the ordering party needs to alert the clerk's office by sending a letter to the clerk requesting that the file stay in Columbia for more than two months.

The FRC has entered into a courtesy agreement with the courts whereby it provides counter

reference service to the public and copy request by mail in lieu of returning the case files to the court. A party who desires to utilize these services must comply with the following steps:

1. Obtain the following information from the court where the case was filed and closed. Without ALL of the information listed below the FRC cannot locate the record:
 - a. Case file number;
 - b. Case file name;
 - c. FRC accession number;
 - d. FRC location number;
 - e. Agency box number.
2. Telephone the FRC at (404) 763-7474 or fax them at (404) 763-7815, and tell them you wish to review and/or copy a court record. Give the FRC staff the following information and allow 24 hours before calling for confirmation:
 - a. The information you obtained in 1. above;
 - b. The city in which the court is located;
 - c. Your name and daytime telephone number.
3. Obtain confirmation that your file has been located and is available for review and/or copying by telephoning the FRC staff at (404) 763-7474. If the case is not at the FRC, or the numbers provided were incorrect, you will have to contact the court for additional information and begin anew.
4. Obtain an appointment to review and copy the file at the FRC. Appointments are scheduled in 15 minute intervals 8:15 a.m. through 11:30 a.m. and 1:15 p.m. through 3:30 p.m. Monday through Friday only.
5. At the FRC, you must review, identify, and count the pages you wish to be copied. The FRC staff are not trained to assist you in identifying pages that you need, or to give technical information regarding file content or court actions. You will need to know if you wish your copies certified and must be prepared to pay for copying and/or certification prior to having the copies made.

CHARGES: \$.50 per page for copies
\$5.00 for certification of each case file.

The FRC will accept cash, money orders, or preprinted personal checks; personal checks require two identification cards (drivers license and a major credit card). If you need more than 50 pages copied and/or certified, the FRC will accept payment and mail the copies or have them available for pick-up the following day.

C. CERTIFICATES OF SERVICE

A certificate of service should always include: (1) the name, address, telephone number and District Court ID number of the attorney serving the document; (2) the name of the party represented by the attorney serving the document; (3) the title of the document that is being served.

If one motion, notice, etc. is being served on several parties, a certificate of service for each party is not necessary, but the certificate of service should list all of the parties served.

D. CLAIMS

Copy Requirements: Chapter 7 - original only
 Chapter 13 - original plus 1
 Chapter 11 - original only
 Chapter 12 - original only

If you desire a copy returned to you with the filing date stamp on it, send an extra copy of the claim with a self-addressed, stamped envelope.

E. CONFLICTS OF INTEREST/ DISQUALIFICATION OF JUDGE

Any attorney filing a case, adversary proceeding or a document who knows, or has reason to believe that there will be a conflict of interest with a judge of the court, should file the required Statement of Conflict in compliance with SC LBR 5004-1.

The attorney should indicate the extent of the conflict and whether or not the issues involved are such that they will affect the entire case. For example, if an adversary proceeding is filed, the statement should indicate whether the conflict will affect the related bankruptcy case. For instance, if the adversary proceeding is filed pursuant to 11 U.S.C. § 727 of the Code and deals with the entire discharge of a debtor, then the main bankruptcy case would be affected, and the entire case, including the adversary, would need to be reassigned. On the other hand, there may be some adversary proceedings or motions which could stand alone and have no effect on the related bankruptcy case so that only that particular matter would require reassignment. The clerk's office will rely on the Statement of Conflict in determining case assignment for bankruptcy cases and adversary proceedings. (For additional information on this topic, see **I. J.** [CASE/JUDGE ASSIGNMENT on page 6](#)).

F. COURTROOM PRACTICE AND PROCEDURES

First and foremost, SC LBR 9010-1 requires attorneys practicing before the court to possess a working knowledge of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, Federal Rules of Civil Procedure and the Local Rules of this court. Prior to appearing before the court at a hearing or trial, the attorney should print their name on the

appearance sheet for the appropriate case(s) and print his/her mailing address, phone number and the name of the client being represented. Please note that no appearance sheets are printed for § 362 motions or routine chapter 13 hearings.

To avoid being interrupted by the court's electronic recorder operator, it will be necessary for the attorney to state his/her full name for the record for each case where an appearance is necessary. Attorneys should address the court or examine witnesses at the lectern or at the microphone at the counsel table.

All pleadings presented to the court must legibly reflect the attorney's name, mailing address, phone number and district court identification number. It would also be extremely helpful to the court if the pleadings were filed several days prior to the court hearing so that the pleadings could be processed for docketing, copies given to the appropriate trustee and/or the United States Trustee, and most importantly reviewed by the judge or his staff prior to the hearing. Filing pleadings in the courtroom at the hearing can cause undue delays and confusion, particularly on days when many chapter 13 cases are scheduled for confirmation or dismissal. If there is a court hearing scheduled within seven days in a case, and you file pleadings in that case, please attach a fluorescent sheet of paper (available at the Intake Counter) to the pleadings and indicate when the hearing is to be held.

The clerk's office cannot serve as a message center for attorneys attending court. Please discourage your office from calling the clerk's office and requesting delivery of a message. The Intake Division of the clerk's office has been instructed not to interrupt court to deliver a phone message to an attorney. Your cooperation will be appreciated.

If you plan to introduce exhibits at court, bring extra copies for other counsel, yourself and any witnesses. The original introduced exhibit is for the judge to view during the hearing or trial. Refer to SC LBR 9017-1 for disposition of exhibits when a case is closed.

Continuances and Settlements - Be familiar with SC LBR 7016-1 and 9014-3. Telephone requests for continuances will not be considered. Each party receiving notice must consent to the continuance by signing a proposed order of continuance, which must include a statement of the cause for the request. The order must be submitted to the court at least five (5) business days prior to the hearing or trial.

The submission of a consent order with the consents of all parties is not a guarantee that the court will agree to the continuance, and the parties are not excused from attending the scheduled matter until the court has granted the request by signing the proposed order.

Absent the consent of each party, a motion may be submitted for filing with the clerk's office, accompanied by an affidavit of counsel, which sets forth the reason for the request. These must be filed and served on each party which has received notice at least five (5) business days prior to hearing or trial. If the motion for continuance is granted without a hearing, the requesting party may be required to notify each party which has received notice of the hearing that it has been continued.

Notice of settlement of a trial or hearing must be provided to the court in writing not less than 24 hours prior to the scheduled date. Either a proposed order, consented to by each

party, or a certificate (Local Official Form 7016-1) of the moving party, stating that each party which has responded or filed a pleading relating to the matter has been notified of and agreed to the settlement, must be submitted.

Absent the notice set forth above, the parties and their counsel shall appear before the court at the time scheduled for the trial or hearing and present the court with a proposed consent order of settlement. In lieu of a consent order, the attorney may read into the record the material terms of the settlement. Failure to appear may result in the imposition of appropriate sanctions by the court. (For additional information on this topic, see **V. H. HEARINGS** on page 51).

G. *DISABILITIES - SERVICES FOR PERSONS WITH COMMUNICATIONS DISABILITIES*

Listening systems are available to accommodate persons with communication disabilities. All of Columbia's courtrooms are equipped with this system, as well as the Charleston and Spartanburg courtrooms. Anyone desiring the assistance provided by this system should obtain a headphone from the Electronic Court Recorder Operator (ECRO) prior to the commencement of their hearing.

A participant in a hearing who desires a sign language interpreter must notify an ECRO at (803)765-5436 at least three (3) days prior to the hearing date. Arrangements for this service are made with outside agencies. This service is not required to be provided to spectators, nor does it include providing language interpreters.

H. *HEARINGS*

Matters which require a hearing are generally assigned a hearing date within (2) weeks of filing. If a hearing notice has not been received within this time, check with clerk's office.

Time Requirements for Hearings: Parties filing documents who know that a significant amount of time will be required for hearing the issues raised in the document should include a statement in a cover letter, or attach a special note to the document, estimating the amount of time required. Please do not do this unless you have explored the possibility of resolving the issue. However, if you are certain that resolution is not possible, advising us of the time required will avoid having the matter set for a short period of time and a continuance being necessary. **DO NOT CALL THE COURT REQUESTING A TIME FOR A HEARING PRIOR TO FILING THE DOCUMENT.** The clerk may delegate certain noticing functions to the moving party. (For additional information on this topic, see **V. F. COURTROOM PRACTICE AND PROCEDURES** on page 49).

I. *JUDGMENTS FRBP 7055, 9021, 9022*

Entry of Default: Pursuant to FRCP 55, made applicable in bankruptcy cases by FRBP 7055, a default must be entered by the clerk when a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by the rules.

The party seeking the entry of default must present an affidavit of such default which sets forth the following facts:

1. Date of issuance of summons
2. Statement of whether the court fixed a deadline for the filing of an answer or motion, or whether the 30 (or 35) day limit applies;
3. Date of service of the complaint
4. Date of filing of the affidavit of service or certificate of mailing
5. Statement that no answer or motion has been received within the time limit
6. Statement that the defendant is not an infant or incompetent person, nor has been in the military service of the United States since the filing of the suit or for a period of six months prior to such filing pursuant to FRCP 55. (If the defendant is in the military service, he is afforded certain protection which must be addressed prior to the entry of default).

Default Judgment:

1. The clerk may enter a judgment by default when the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain if default has been entered as outlined above. The plaintiff must apply for a default judgment and must submit an affidavit of the amount due. (Note: "sum certain" means an amount which can be fixed by simple calculation or can be set by documentation such as an invoice or contract. It does not refer to a mere claim by a party for a specific amount).
2. In all other cases, the party entitled to a judgment by default must apply to the court for it. The court may schedule a hearing if one is necessary in order to enable the court to enter judgment. If the party against whom the default judgment is sought has appeared in the action, the party (or the party's representative) must be served with written notice of the application at least three (3) days before a hearing on the application.

Separate-document Judgments: Certain orders, notably those of any length, those with findings of fact and conclusions of law, those containing a number of conditions, those with extensive case law discussed and cited, and those in the form of a judge's "opinion", "memorandum" or "memorandum and order" require a separate document to be prepared and denominated "judgment". This is to avoid any confusion as to whether an order is, indeed, a judgment, i.e., an appealable order. The separate-document judgment is usually prepared by the judge issuing the accompanying opinion or order, however, the court may direct the prevailing party to submit a form of the judgment for the court's approval. Parties who submit lengthy proposed orders which include findings of fact and conclusions of law may wish to submit a proposed judgment along with the order.

Notice of Judgment or Order: FRBP 9022 requires the clerk to give notice of the entry of a judgment or order and this office usually does that by sending a copy of the judgment or order to the contesting parties and any other entity the court directs. However, if the order is lengthy and there are numerous parties, only a notice may be sent and anyone wanting the complete order may request copies through the copy service. Please note that FRBP 9022

provides that lack of notice of the entry does not affect the time to appeal or relieve or authorize the court to relieve a party for failure to appeal within the time allowed, except as permitted in FRBP 8002. Thus, parties should regularly monitor the various automated systems or the actual case file to ascertain whether a final order or judgment has been entered.

Pursuant to FRBP 5003(c), the clerk's office maintains a judgment index of all bankruptcy judgments and orders affecting title to, or lien on, real property, or for the recovery of money or property. It covers the period February 1990 to the present. (Prior to February of 1990, bankruptcy judgments were maintained by the United States District Court for the District of South Carolina.)

The index reflects the case number, case title, judgment number, date of the judgment and date the judgment was recorded. An electronic judgment index for judgments entered in 1999 can be viewed in the Intake Department of the clerk's office. A judgment index (binder) is also available in the Intake Department of the clerk's office for judgments entered prior to 1999.

FRBP 5003(c) further states that, on request of the prevailing party, a correct copy of every judgment or order affecting title to, or lien upon, real or personal property, or for the recovery of money or property, shall be kept and indexed with the civil judgments of the district court.

J. MAILING MATRIX REQUESTS

When the court directs a party to serve a notice, a copy of the official matrix will be provided pursuant to SC LBR 2002-1.

In any other instance, (i.e., if a party is serving a notice on the approved passive notice list), the party must request this matrix through the clerk's office (the \$.50 per page copy charge will apply to requests for the matrix from the clerk's office) or from Copy Pickup, Inc..

The list of 20 largest unsecured creditors or the unsecured creditors' committee is available by either reviewing the file for this information, or requesting it from Copy Pickup, Inc..

When any person orders and/or receives mailing lists or labels from the clerk's office, Copy Pickup, Inc., or from a chapter 13 trustee's office for the purpose of giving notice, it shall be the responsibility of that person to inspect the list or labels to ensure that all parties required to receive notice are included thereon, and to serve any party involved in, or entitled to, notice of the particular action who is not on the mailing list.

An all-creditor mailing matrix is available for cases under all chapters except chapter 13.

K. OBJECTIONS

All objections must be made in accordance with SC LBR 9014-4 and must be properly

served.

Any party failing to comply with the rule may be denied the opportunity to appear and to be heard in the hearing before the court.

The clerk's office is unable to give legal advice, and all employees are prohibited from answering questions concerning proper service of objections and/or notices. Our suggestion is to give notice to the debtor, attorney for the debtor, trustee (if applicable) and any other party which you believe to have an interest in the objection or notice. (For additional information on this topic, see [IV. MOTIONS on page 37](#)).

L. ORDERS

SC LBR 9072-1

Out-of-town court precludes the judges from considering orders on a daily basis and if the judge has taken the matter under advisement, additional time may be required before the order is entered. An attorney or party in interest should access the case docket to ascertain whether or not an order or judgment has been entered on the docket. BANCAP and document image terminals are available at the Intake Division of the clerk's office, and an inquiry as to whether or not an order or judgment has been entered on the docket can also be ascertained by using them. Only in emergency situations should an attorney request the status of an order over the telephone.

Proposed orders should be submitted with the judge's name to whom the case is assigned and the complete case number and caption.

If proposed orders are not submitted timely, a rule to show cause may be scheduled and directed to the party responsible for submitting the order as to why the party has failed to abide by the court's instructions. After notice and an opportunity for a hearing appropriate sanctions may be entered against the non-complying party.

M. PASSIVE NOTICES

SC LBR 9014-2 and accompanying Clerk's Instruction apply to motions approved for passive notice. Passive notice is defined as "notice and an opportunity for a hearing". These notices specify a certain number of days in which parties can object to the motion.

The court has approved certain motions and applications for "passive notice" and they are shown on the "passive notice list"; only the matters on that list should be noticed using a passive notice. The passive notice list may be amended from time to time. Special motion days are scheduled each month and a reasonable effort should be made to coordinate hearings on motions with the calendars of opposing counsel and the trustee in the case. Hearing dates and locations for motions noticed passively are posted on the court's Internet web site at www.scb.uscourts.gov, on PACER Classic, and are available from the Intake Division

of the clerk's office. If you anticipate that a hearing may take one (1) hour or more, contact the Judge's law clerk or a courtroom deputy clerk to secure an alternative hearing date. **The hearing date should be NO LESS than ten (10) days following the last day for objections.**

Any response, return and/or objection to the motion must be made and served in accordance with SC LBR 9014-4. Clerk's Instruction, CI-9014-2, sets forth specific return, response and/ or objection time frames for certain documents. The majority of the responses, returns and/ or objections should be served and filed no later than twenty (20) days following the service of the motion. The exceptions are:

- * The minimum time period for response, return and/or an objection to a motion to **Reopen/Reconsider** is **fifteen (15)** days.
- * The minimum time period for response, return and/or an **objection to claim** is **thirty (30)** days. See Federal Rule of Bankruptcy Procedure 3007. (Government Agency - **thirty-five (35)** days).
- * The minimum time period for response, return and/or an objection to application for **final decree in a chapter 11** case is **thirty (30)** days.
- * The minimum time period for response, return and/or an objection to a motion to **avoid lien or motion to establish value** is **twenty-five (25)** days.
- * The minimum time period for response, return and/or an objection to all other motions/applications is **twenty (20)** days.

FRBP 9006 states that when there is a right or requirement to do some act or undertake some proceedings within a prescribed period after service of a notice or other paper and the notice or paper other than process is served by mail, three (3) days shall be added to the prescribed period. It is the practice of the clerk's office to calculate the three (3) mailing days for all passive notices. Generally, following expiration of the notice time plus the three (3) mailing days, the order is considered by the court if no objections are filed. (For additional information on this topic, see [VI. Exhibit 11 – Clerk's Instruction 9014-2: Motions on Passive Notice on page 115](#) and [Exhibit 12 – Local Official Form 9014-2\(b\) To SC LBR 9014-2 on page 119](#)).

N. PROFESSIONAL FEES REPORT

Pursuant to FRBP 2013(a) the clerk's office maintains a public record listing fees awarded by the court (1) to trustees and attorneys, accountants, appraisers, auctioneers, and other professionals employed by trustees, and (2) to examiners. The record includes the name and docket number of the case, the name of the individual or firm receiving the fee and the amount of the fee awarded.

The clerk's office, at the end of each calendar year, compiles a chronological listing of all cases with trustee or professional fee awards. The fee reports may be inspected at the intake section of the clerk's office during business hours of the court.

O. REAFFIRMATION AGREEMENTS

A reaffirmation agreement is a debtor's agreement with a creditor to reaffirm the debtor's obligation to repay a consumer debt that would otherwise be dischargeable. A common example of the type of debt involved in a reaffirmation agreement is the loan on a debtor's car. A hearing is required in certain instances to obtain court approval of the agreement, such as in a case where the debtor is appearing pro se, and in those instances the court will schedule a hearing on the reaffirmation agreement and serve all interested parties. Also, if the discharge of the debtor HAS BEEN granted, the reaffirmation agreement will be routed to the Judge for his consideration since § 524 (c)(1) provides that a debtor can not enter into a reaffirmation agreement after a discharge has been issued.

The attorney for the debtor must submit an affidavit of counsel indicating that the agreement does not pose an undue hardship on the debtor, the debtor was fully informed of the agreement, and that the debtor was advised of the legal effect and consequences of the agreement as well as any default under the agreement. The agreement must be signed by the debtor and the creditor.

P. ORDER RETURNING DOCUMENT / ORDER STRIKING DOCUMENT

In accordance with SC LBR 5005-1, documents submitted for filing should conform to the criteria set forth in the Clerk's Instruction: Filing of Documents in Clerk's Office (CI-5005-1) or contain the prescribed information. The court may issue an Order Returning Document or an Order Striking Document if the document does not conform to the criteria. Petitions or documents not accompanied by the filing fee prescribed by 28 U.S.C. § 1930 and the Appendix thereto (Bankruptcy Court Miscellaneous Fee Schedule) will not be accepted for filing. If the preparer has a question concerning the order or believes the order was issued in error, it is recommended that the preparer contact the clerk's office immediately.

An order returning document may be entered for any of the following reasons: 1) the document does not appear to bear the signature of the preparer in accordance with this court's Bankruptcy Rule 1002-1; 2) the document does not reference by name or number, a case pending in this court; 3) the case is closed (unless the document is accompanied by a motion to reopen); 4) the case is dismissed; 5) the document is not accompanied by the required fees; 6) the document is accompanied by fees that are NOT tendered in cash, certified check, United States Postal Service money order, or a check which is acceptable to the clerk; 7) no list of creditors or matrix was submitted with the petition; 8) an involuntary case which has no petition for relief submitted.

The document will be returned unfiled and not docketed . The document will remain unfiled and will not be docketed unless the deficiency is remedied and the document is resubmitted within eight (8) days.

If the original date of tender is critical, the court may consider setting aside the order returning document if the following is filed with the court within eight (8) days of the entry of the order returning document:

1) a written motion for hearing which clearly indicates why the document should be filed as of the date shown in the first paragraph of the order returning document; 2) a copy of the order returning document; 3) the corrected document indicating that the deficiencies of the original document have been cured; and 4) a certification that a copy of the motion for hearing was served on each party that had been served with a copy of the document which was returned. (For additional information on this topic, see **VI. Exhibit 9 – Clerk's Instruction 5005-1: Filing of Documents in Clerk's Office on page 105**).

An order striking document may be entered for any of the following reasons:

1) Amendments - not served or the supplemental mailing matrix not submitted in accordance with SC LBR 1009-1; 2) Motion to Establish Value – not filed in accordance with SC LBR 3012-1 or motion to establish value received in a Chapter 13 case (SC LBR 3015-1); 3) Motion to Avoid Lien – not filed in accordance with SC LBR 4003-1 or motion to avoid lien received in a Chapter 13 case (SC LBR 3015-1); 4) Reaffirmation Agreement - not accompanied by affidavit of attorney; 5) Chapter 13 Plan – not filed in accordance with SC LBR 3015-1; 6) Motion to Modify Stay – not filed in accordance with SC LBR 4001-1.

The document and all associated documents will be docketed but not processed. An order striking document will be entered and served on interested parties. If you wish for the court to take any further action, the document must be refiled. The order striking document may be rescinded if, within eight (8) days, the delinquency has been satisfied or a motion has been filed requesting the court to set aside the order striking document and to toll any deadline which may be affected by the order. The motion should be accompanied by a supporting memorandum of law and facts, and by a certification that the motion was served on all parties who were served with the document referenced in the order.

Any objections that are received to a stricken document, will be docketed but will not be acted on by the court. The objecting party will receive a copy of the stricken order. If the stricken document is resubmitted, the objecting party should file another objection. (For additional information on this topic, see **VI. Exhibit 9 – Clerk's Instruction 5005-1: Filing of Documents in Clerk's Office on page 105**).

Q. RETURNED NOTICES OF MEETINGS OF CREDITORS

FRBP 2002/SC LBR 2002-2

All notices of meetings of creditors are mailed to creditors and parties in interest utilizing the addresses provided on the mailing matrix submitted with the petition for relief. The envelopes used to mail such meeting notices (as well as discharges) reflect the return address of the debtor's attorney, or the address of the debtor if there is no attorney of record.

If a § 341 meeting notice or the discharge of debtor is designated as "undeliverable" by the United States Postal Service, the notice will be returned to the debtor's attorney, or directly to the debtor if there is no attorney of record. The notice should then be mailed by the attorney, or the debtor if pro se, to the creditor or party in interest at the corrected addresses. It should not be sent to the court.

It is the responsibility of the debtor's attorney, or the debtor if there is no attorney of record, to provide the court with the correct address of all creditors and parties in interest. In order for these creditors or parties in interest to receive future notices, correct address information must be provided by the debtor's attorney, or the debtor if there is no attorney of record.

R. SUBPOENAS

On December 1, 1991, FRCP 45 dealing with issuing subpoenas was amended in a significant way -- making it no longer necessary for subpoenas to be issued by the clerk of court; although the clerk still has the authority to issue subpoenas, a subpoena may be issued by attorneys as officers of the court.

Attorneys are authorized to issue subpoenas in the name of any court in which they are admitted to practice, and in the case of a deposition or production of documents taking place in another district, in the name of the court where the deposition or production is to take place.

The court's seal is no longer required on a subpoena, but a signature is required.

The subpoena form must set forth the rights and responsibilities of the person served. It is a multi-purpose form and has four alternatives: (1) commands a party to appear, (2) commands a party to testify at the taking of a deposition; (3) commands a party to produce and permit inspection of documents, and (4) commands a party to permit inspection of premises at a time prescribed.

Proof of service of the subpoena is required to be filed only when necessary. Presumably, this would happen only when a dispute arises. The proof of service is filed in the court in whose name the subpoena was issued. In the case of depositions or requests to produce, this will usually be the first notice the court has that the attorney-issued subpoena exists.

The objection period on a subpoena is fourteen (14) days after service. If an objection is made, the party is not required to produce the documents unless the party seeking the document prevails on a motion to compel. The revision also directs the court, when compelling production, to protect the nonparty from any significant expense associated with the copying and production.

Failure to obey a subpoena, even one issued by an attorney, remains punishable by contempt. Subpoena forms are available from the clerk's office upon request. (For additional information on this topic, see **II. E. ADVERSARY PROCEEDINGS on page 25**).

S. TRANSCRIPTS AND AUDIO TAPES OF HEARINGS

All requests for transcripts shall be made directly to the court's electronic court recorder operator (ECRO) and must be made in writing by submitting Form AO435. The estimated cost of the transcript will be provided by the ECRO and must be paid in advance of its

preparation. The search fee is specified in the court Fee Schedule of 28 U.S.C. § 1930(b) and will be charged for any transcript request when the transcript request is completed. All requests for tape duplications of any matter heard by the court shall be made directly to the court's ECRO and must be made in writing by submitting Form AO436. A fee of \$15.00 per tape duplicated must be paid to the clerk of court in advance. Transcript Order Form AO435 and the Tape Order Form AO436 may be obtained at the clerk's office in person or by mail upon request. Your request for tapes or transcripts must include your signature, the bankruptcy case number and name, debtor's name, judge's name, date and time of hearing.

T. UNCLAIMED DIVIDENDS

Definition and Authorities: Unclaimed funds, otherwise known as undistributed funds or unclaimed property, result from checks to claimants not being cashed within ninety (90) days of the final distribution. The trustee must, in accordance with 11 U.S.C. § 347(a) stop payment on these checks and pay all such funds to the court.

If checks to the claimants are not cashed within ninety (90) days, the trustee stops payment and forwards all unclaimed funds to the court for deposit. Pursuant to FRBP 3011, the trustee files a list of all known names and addresses of the entities and the amounts to which they are entitled when he submits the check representing unclaimed funds. The Rule applies to chapter 7, 12 and 13 cases but not chapter 11 cases. If, after funds have been deposited with the court, the claimant wishes to be paid from the estate, they must request these funds from the court using Local Official Forms 3011-1(a), 3011-1(b), 3011-1(c), 3011-1(d) in conjunction with SC LBR 3011-1 and accompanying Clerk's Instruction: Disposition of Unclaimed Dividends (CI-3011-1). If no objections are filed with the court within twenty (20) days after the filing and service of the motion, the motion and accompanying documents will be submitted to the court for determination. If an objection is timely filed with the court, the motion and objection will be forwarded to the court for either scheduling a hearing or making a determination on the motion. If the motion and accompanying documents are not properly executed, and the procedures and requirements outlined are not met, the court may deny the motion. (For additional information on this topic, see **VI. [Exhibit 6 – Clerk's Instruction 3011-1: Disposition of Unclaimed Dividends on page 87](#)**).

VI. Exhibits

Exhibit 1 – Organization Chart

United States Bankruptcy Court - District of South Carolina 7/19/99

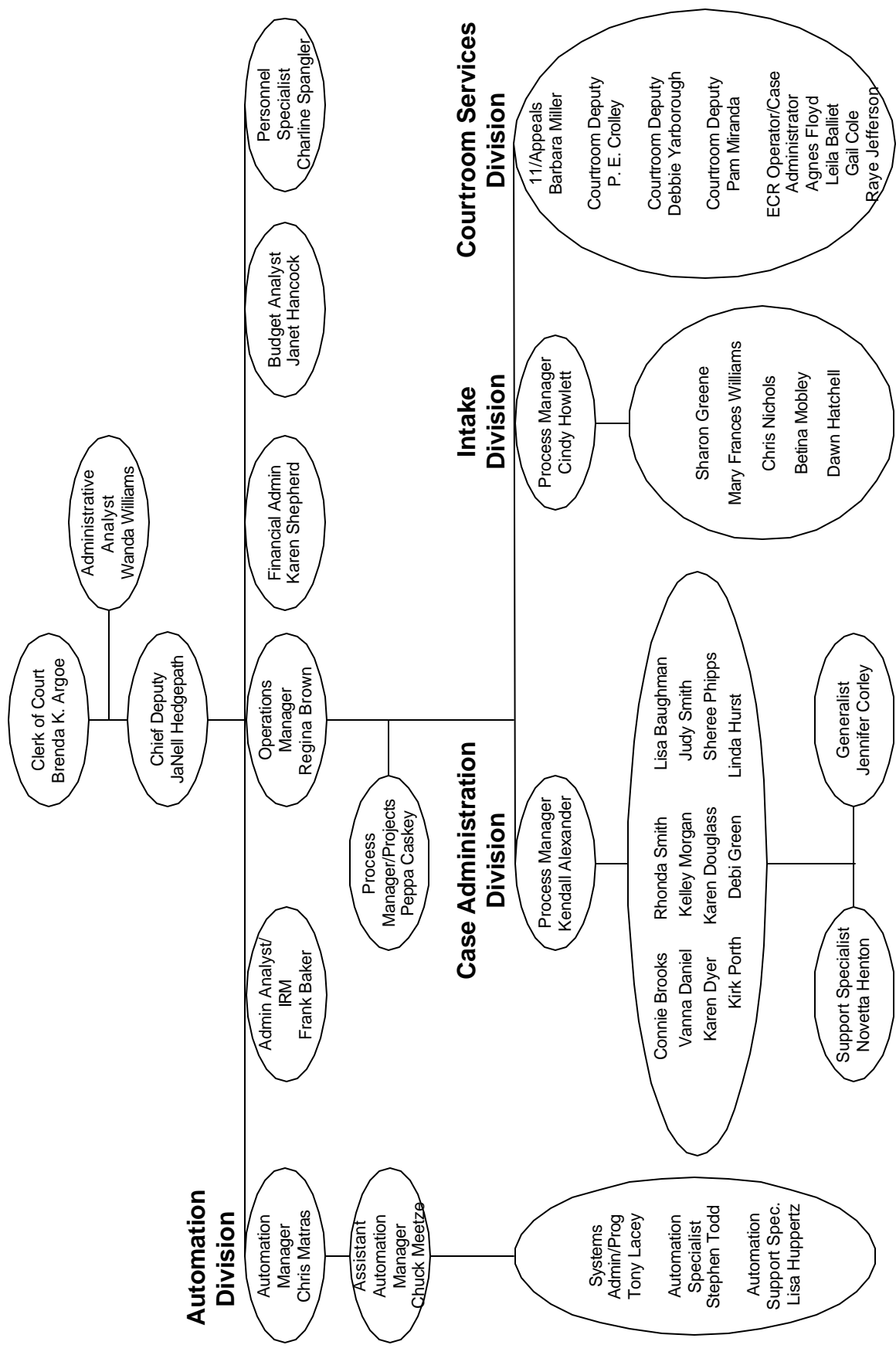


Exhibit 2 - Clerk's Instruction 1007-1(a): Submission of the List of Creditors on Computer Diskette

UNITED STATES BANKRUPTCY COURT**SOUTH CAROLINA****Clerk's Instruction: Submission of the List of Creditors
on Computer Diskette (CI-1007-1(a)¹)****(a) General Information**

As part of the filing requirements set forth by the Federal Rules of Bankruptcy Procedure 1002, 1003 and 1007, the debtor shall file with the petition a mailing matrix alphabetically listing the name and address of each creditor shown on the schedules. The automated docketing system in this court provides for the computerized processing of creditors to enable a high volume of cases to be processed within limited time constraints. Creditors can be initially loaded into the computer database for each case in one of two ways: (1) "loading" the information from a 3 ½ " high-density disk supplied at the time of filing or (2) by "scanning" a hard (paper) copy mailing matrix supplied at the time of filing . Pursuant to South Carolina Local Bankruptcy Rule 1007-1 (SC LBR 1007-1), it is required that the list of creditors for cases filed in all chapters be submitted on disk in the proper format outlined in these instructions. The court no longer accepts a hard (paper) copy of the mailing matrix unless it is accompanied by a waiver (Local Official Form 1007-1(a) of SC LBR 1007-1). The waiver is intended to accommodate persons filing *pro se*. Mailing lists submitted incorrectly may be required to be resubmitted.

(b) Submitting Mailing Matrices on Disk**(1) Disk Type:**

Must be a 3 ½ "disk in Microsoft DOS compatible format in any density up to 1.44MB.

(2) File Requirements:

- (A) each case must be submitted with a separate disk containing the creditors with their addresses; the system can only read one file per disk.
- (B) the file must be saved in a "pure text" format (see subsection **Text Format** on the following page).
- (C) the file must be located in the disk's root directory and named creditor.scn.

(3) File Content:

The creditor list should only include the specific creditors to that particular case. SC LBR 1007-1 previously required inclusion of an additional list of "special" creditors. Unless one of these "special" creditors is a specific creditor to that particular case, do not include them on the list. The court has software which will automatically add "specials". Also, do not add the debtor, joint debtor, attorney for debtor, case trustee or United States Trustee in the list of creditors since these will be added automatically.

¹ See SC LBR 1007-1

(4) **Text Format:**

The creditor list saved as creditor.scn must be in ASCII , or “pure text” format in order for the court’s computer to read the data. All word processing packages have the capability of saving a word processing document as “pure text”. Any text editor such as the DOS editor (EDIT), most word processors such as WordPerfect or Microsoft Word are capable of producing the required output. (See subsection on **File Saving and Labeling Disk**).

(5) **Creditor Format:**

- (A) Must be typed in Courier 12 point font (10 cpi)
- (B) lists should be typed in a single column
- (C) each name and address must consist of no more than 5 (five) total lines of single spaced type
- (D) one blank line should appear between each creditor address
- (E) ZIP codes must be located on the same line as the city and state which should be the last line of the address
- (F) use ZIP +4 format with a hyphen between the fifth and the sixth number
- (G) each line must be 30 characters or less in length
- (H) if “attention” lines or account numbers are used, they should appear on the second line of the address, not on the last line
- (I) no headers, footers or page numbers should be used in the text
- (J) use all capital letters, no lower case
- (K) no punctuation should be used except for the hyphen in item (5) above

(6) **File Saving and Labeling Disk:**

- (A) After all creditors are typed, the file should be saved to a diskette in text format, not the word processor’s document format. The file name should be creditor.scn.

Examples for Microsoft Word or WordPerfect for Windows:

After the matrix has been typed, place a formatted diskette in the floppy drive and select the following items from the menu bar at the top of the window:

File

Save As...

Save File as Type: *(select one of the following type)*

MS-DOS Text or ASCII (DOS) Text

File Name: *(enter **creditor.scn** in the box below this item)*

Drives:

A: *(or whatever is appropriate for your PC)*

OK (left click the button one time with the mouse to complete saving the file)

Examples for WordPerfect 5.1 for DOS

After the matrix has been typed, place a formatted diskette in the floppy drive and select the following keyboard commands.

<CTL>+f5 (hold the 'CTRL' key down and press the "f5" key)
next select
1 DOS Text next select
1 Save
Document to be saved (DOS Text): (enter the drive letter and
file name: 'A:CREDITOR.SCN')

- (B) Do not write on a disk label with ballpoint pen because the disk may be damaged. Use a felt-tip pen or write lightly in pencil. The following information should be included on each disk submitted:

- (i) name of submitting firm or practitioner
- (ii) debtor's full name
- (iii) the number of creditors on the disk

- (C) It is advisable to save a backup copy of the creditor file, either on the hard drive of the computer or a second diskette, in case another copy of the file is needed later.

(7) **Returning Disk:**

A used disk of comparable media will be traded for the submitted disk. If the filing takes place at the court window, the disk will be substituted immediately. If the filing takes place through the mail, the disk will be returned along with any extra copies of documents, provided that a self-addressed, stamped envelope was supplied. All disks that the court receives will be recycled and traded on an on-going basis. If it is imperative that the actual disk which you submitted be returned to you rather than a comparable disk, print "return this disk" on the label portion of the disk under your name as outlined in (b)(6) above.

(c) Submitting Certification Verifying Creditor Matrix

Pursuant to SC LBR 1007-1, every mailing matrix submitted must be accompanied with a Certification Verifying Creditor Matrix (see Local Official Form 1007-1(b)). The certification must meet the following requirements:

- (1) be signed by debtor or attorney for the debtor when applicable
- (2) if Local Official Form 1007-1(b) to this rule is not used, the certification must state "The above named debtor, or debtor's attorney if applicable, does hereby certify that the Master Mailing List of creditors, submitted on computer disk, has been compared to, and contains identical information to, the debtor's schedules, statements and lists pursuant to SC LBR 1007-1."

(d) Additional Certification Verifying Schedules and/or Statements

Schedules and/or statements submitted subsequent to a filing of the voluntary petition and matrix (an incomplete filing) must be accompanied by an additional certification. This certification must meet the following criteria:

- (1) be signed by debtor or attorney for the debtor when applicable
- (2) the certification must state "The above named debtor, or debtor's attorney if applicable, does hereby certify that the schedules and/or statements contains an identical list of creditors as those previously submitted on computer disk"
- (3) the certification must state that no additional creditors have been included on the schedules and/or statements since the submission of the original creditor matrix.

If additional creditors have been added, refer to SC LBR 1009-1.

(e) Computer Virus Protection

The court has computer software which scans disks for viruses in order to prevent possible damage to court records as well as affording protection to those who request the return of disks from the court. Since new strains of computer viruses are regularly created, the court subscribes to a virus detection update service which allows us to detect the most recent computer viruses.

All computer users are strongly urged to ensure that safeguards exist in their offices to detect and eradicate current and future computer viruses. You should also be aware that whatever virus detection software you use must be updated regularly because old software will not detect new viruses.

NOTE:

Please refer to SC LBR 1007-1 and Local Official Form 1007-1(a) if a waiver to this rule is requested. If the completed waiver is not accepted by the clerk's office, you will be required to submit the mailing matrix on computer disk within forty-eight (48) hours. Any procedural or systems based questions with regard to these instructions may be directed to our Intake staff at 765-5436 (ext. 3045) who will connect you with the appropriate party.

Exhibit 3 - Clerk's Instruction 1007-1(b): Submission of the List of Creditors on Hard Copy in a Scannable Format

UNITED STATES BANKRUPTCY COURT**SOUTH CAROLINA****Clerk's Instruction: Submission of the List of Creditors on Hard
Copy in a Scannable Format (CI-1007-1(b)¹)****(a) General Information**

As part of the filing requirements set forth by the Federal Rules of Bankruptcy Procedure 1002, 1003 and 1007, the debtor shall file with the petition a mailing matrix alphabetically listing the name and address of each creditor shown on the schedules. The court no longer accepts a hard (paper) copy of the mailing matrix unless it is accompanied by a waiver (Local Official Form 1007-1(a) of South Carolina Local Bankruptcy Rule 1007-1(SC LBR 1007-1)).

The waiver is intended to accommodate persons filing *pro se*. Mailing lists submitted incorrectly may be required to be resubmitted. In order to ensure that the hard (paper) copy matrix can be read by the Optical Scanner, the following instructions must be followed when preparing creditor lists.

(b) Preparing A Hard Copy Scannable Matrix

- (1) A matrix in the attached format must be used, and it must be typed in a single column format using one of the following three typing elements:

- (A) courier ten pitch
- (B) prestige elite
- (C) letter gothic

If you are using a 10 pitch element, be sure your typewriter or printer is set to 10 pitch, not 12 pitch.

- (2) Pursuant to United States Postal Service standards, the matrix should be typed in all capital letters with no punctuation. Use the standard two (2) letter abbreviation for states. Do not use periods to separate the state's initials. The address should include a 9-digit ZIP code with the hyphen between the fifth and sixth digit of the ZIP code.
- (3) DO NOT put attention lines or account numbers on the last line. Put these on the second line following the creditor's name.
- (4) No letter should be closer than 1 inch from any edge of the paper.
- (5) Each name and address must consist of no more than five (5) total lines, with at least TWO BLANK LINES between each name and address.
- (6) Each line must NOT exceed 40 characters in length.
- (7) DO NOT include the following parties on your matrix: debtor, joint debtor, attorney for the debtor, U.S. Trustee, U.S. Attorney, case trustee, Department of Revenue and Taxation, S.C. Employment Security Commission, City and County Tax Collectors. The court's system will automatically add these creditors to the matrix.

¹ See SC LBR 1007-1

- (8) DO NOT put any other information on the matrix, such as a heading, date, lines and page numbers, etc.
- (9) DO NOT use onion skin, carbon, colored or erasable bond paper.
- (10) DO NOT print from dot matrix printers, worn out typewriters, or printers using a ribbon.
- (11) DO NOT use the letter "l" as a substitute for the number "1"
DO NOT use % as a substitute for c/o
DO NOT use \ as a substitute for /
DO NOT use +, use either "and" or &
DO NOT use ~ as a substitute for -
DO NOT use [] as a substitute for ()
- (12) **DO NOT STAPLE. DO NOT PUNCH HOLES.**

(c) Certification Verifying Creditor Matrix

Pursuant to SC LBR 1007-1, every mailing matrix submitted must be accompanied by a Certification Verifying Creditor Matrix. The certification must:

- (1) Be signed by debtor, or debtor's attorney when applicable.
- (2) Local Official Form 1007-1(b) of SC LBR 1007-1 or contain the following language:

"The above named debtor, or debtor's attorney if applicable, does hereby certify that the Master Mailing List of creditors, consisting of (# of sheets) sheet(s), has been compared to, and contains identical information to, the debtor's schedules, statements and lists pursuant to SC LBR 1007-1."

(d) Additional Certification Verifying Schedules and/or Statements

Schedules and/or statements submitted subsequent to a filing of the voluntary petition and matrix (an incomplete filing) must be accompanied by an additional certification. This certification must meet the following criteria:

- (1) be signed by debtor or attorney for the debtor when applicable
- (2) the certification must state "The above named debtor, or debtor's attorney if applicable, does hereby certify that the schedules and/or statements contains an identical list of creditors as those previously submitted on hard copy in a scannable format"
- (3) the certification must state that no additional creditors have been included on the schedules and/or statements since the submission of the original creditor matrix.

If additional creditors have been added, refer to SC LBR 1009-1.

Exhibit 4 – Clerk’s Instruction 1007-2: Debtor’s Claim for Property Exemption

UNITED STATES BANKRUPTCY COURT
SOUTH CAROLINA

Clerk's Instruction: Debtor's Claim for Property Exemption (CI-1007-2¹)

General Information

An individual debtor may list any property claimed as exempt using Local Official Form 1007-2, to these instructions. If Local Official Form 1007-2 is used, it shall be attached as an exhibit to Official Bankruptcy Form B6C (Schedule C- Property Claimed as Exempt).

Local Official Form 1007-2 lists the property which may be claimed as exempt by a debtor pursuant to 11 U.S.C. § 522(b)(2), § 15-41-30 of the Code of Laws of South Carolina and such other state and federal exemptions statutes as are applicable in bankruptcy cases. It is provided as an option to Official Form B6C to assist debtors and debtors' attorneys in accurately completing Official Bankruptcy Form B6C.

Local Official Form 1007-2 is not a substitute for legal advice, nor is it a substitute for any of the requirements of the United States Code, the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure or the South Carolina Local Bankruptcy Rules.

The information contained in Local Official Form 1007-2 was current as of the date of its preparation (May 17, 1999). Any amendments or changes to the federal and state laws as they apply to exemptions since May 17, 1999, will not be reflected in Local Official Form 1007-2.

¹ See SC LBR 1007-2

Exhibit 5 – Clerk’s Instruction 2002-1: Notices to Creditors

UNITED STATES BANKRUPTCY COURT**SOUTH CAROLINA****Clerk's Instruction: Notices to Creditors (CI-2002-1¹)****Notice Requirements.**

Pursuant to Federal Rule of Bankruptcy Procedure 2002(m), and in accordance with the Guidelines on Noticing promulgated by the Judicial Conference of the United States, notice of a hearing or of an opportunity for a hearing upon request, shall be provided as follows:

(a) IN A CHAPTER 13 CASE**(1) By the Trustee**

- (A) Trustee's objection to a claim.
- (B) Trustee's petition to dismiss.
- (C) Trustee's notice of final report and account.
- (D) Trustee's motion to reopen case.

(2) By the Debtor

- (A) Debtor's motion to change venue.
- (B) Debtor's motion to reopen case.
- (C) Debtor's motion to modify confirmed plan.
- (D) Debtor's motion to incur secured debt.
- (E) Debtor's motion to extend time under South Carolina Local Bankruptcy Rule 1007-2 (SC LBR 1007-2).
- (F) Notice of continued or rescheduled first meeting.

(3) By a Creditor

- (A) Creditor's motion to change venue.
- (B) Creditor's motion to dismiss, or in the alternative, to convert.
- (C) Creditor's motion to reopen case.

(b) IN A CHAPTER 12 CASE**(1) By the Trustee**

- (A) Trustee's notice of final report and account.
- (B) Trustee's objection to claim.
- (C) Trustee's petition to dismiss.

¹See SC LBR 2002-1

(D) Trustee's motion to reopen case.

(2) By the Debtor

- (A) Debtor's motion to obtain credit.
- (B) Debtor's motion to change venue.
- (C) Debtor's motion to reopen case.
- (D) Debtor's motion to extend time under SC LBR 1007-2 or to extend the period during which a plan may be filed.
- (E) Notice of preconfirmation conference and confirmation hearing (a copy of the plan and all Local Official Forms should be attached).
- (F) Debtor's motion to modify a confirmed plan.
- (G) Debtor's motion to sell property free and clear of lien.
- (H) Debtor's request for waiver of requirement to file monthly reports.
- (I) Debtor's objection to claim.
- (J) Debtor's motion to abandon property.
- (K) Notice of continued or rescheduled first meeting.

(3) By a Creditor

- (A) Creditor's motion to dismiss or, in the alternative, to convert.
- (B) Creditor's motion to change venue.
- (C) Creditor's motion to reopen case.

(c) IN A CHAPTER 7 CASE

(1) By the Trustee

- (A) Trustee's notice to sell, use or lease property.
- (B) Trustee's motion to compromise a controversy.
- (C) Notice of filings with the court (Chapter 7 Asset Cases Only).
- (D) Trustee's objections to claims (Chapter 7 Asset Cases Only).
- (E) Notice to file claims (Chapter 7 Asset Cases Only).
- (F) Motion to shorten mailing matrix.
- (G) Trustee's motion to reopen case.

(2) By the Debtor

- (A) Debtor's motion to extend time under SC LBR 1007-2.
- (B) Notice of continued or rescheduled first meeting.
- (C) Debtor's motion to reopen case.
- (D) Debtor's motion to redeem property.

(3) By a Creditor

- (A) Creditor's motion to dismiss.
- (B) Creditor's motion to change venue.

- (C) Creditor's motion to reopen case.
- (D) Creditor's motion to abandon property.
- (E) Creditor's motion to allow claim.

(d) IN A CHAPTER 11 CASE

(1) By the Debtor

- (A) Notice of Meeting of Creditors.
- (B) Debtor's motion to use cash collateral pursuant.
- (C) Debtor's request for waiver of requirement to file monthly reports.
- (D) Debtor's request for extension of exclusive period within which the debtor may file a disclosure statement and/or plan of reorganization.
- (E) Debtor's motion to obtain credit.
- (F) Debtor's objection to a claim.
- (G) Debtor's motion to change venue.
- (H) Debtor's motion to reopen case.
- (I) Debtor's motion to abandon property.
- (J) Debtor's motion for approval of an agreement relating to relief from the automatic stay, providing adequate protection, use of cash collateral and obtaining credit.
- (K) Debtor's motion for assumption or rejection of an executory contract or unexpired lease.
- (L) Debtor's motion to extend time under SC LBR 1007-2.
- (M) Notice of continued or rescheduled first meeting.
- (N) Motion to shorten mailing matrix.

(2) By a Plan Proponent

- (A) A disclosure statement.
- (B) A plan of reorganization.
- (C) An application for final decree.

(3) By a Creditor

- (A) Creditor's motion to dismiss or to convert.
- (B) Creditor's motion for assumption or rejection of an executory contract or unexpired lease.
- (C) Creditor's motion for approval of an agreement relating to relief from the automatic stay, providing adequate protection, use of cash collateral and obtaining credit.
- (D) Creditor's motion to change venue.
- (E) Creditor's motion to reopen case.
- (F) Creditor's motion to abandon property.

(e) IN ALL CHAPTERS

- (1) By the Proponent
 - (A) Notice regarding a matter listed on the passive notice list.
 - (B) Applications to employ professionals *nunc pro tunc*.

Inspection of Mailing Labels.

When a person orders mailing lists or labels from the clerk's office or from a chapter 13 trustee's office for the purpose of giving notice, that person must inspect them to ensure that all parties required to receive notice are included thereon.

New Mailing Lists.

Because mailing lists change as a result of notices of appearance, claims or other documents being filed which effect the parties and the addresses on the lists, a party must request new mailing lists or labels from the clerk's office each time any documents are served on the full mailing matrix.

Form of Notices.

Parties should utilize the appropriate Local Official Forms when performing noticing functions which are available on the court's Internet web site at www.scb.uscourts.gov, on PACER Classic and are available at the Intake Division of the clerk's office.

Exhibit 6 – Clerk’s Instruction 3011-1: Disposition of Unclaimed Dividends

UNITED STATES BANKRUPTCY COURT**SOUTH CAROLINA****Clerk's Instruction: Disposition of Unclaimed Dividends (CI-3011-1¹)**

The procedures to be followed by any creditor or party seeking release of funds deposited in the United States Treasury by the court pursuant to 11 U.S.C. § 347(a) are as follows:

The creditor or party shall file simultaneously with the clerk of this court the following:

- (a) Identification Form for Unclaimed Dividend (Note: there are two forms-one for an individual and one for a corporation/business). See Local Official Forms 3011-1(a) and 3011-1(b)
- (b) Motion for Payment of Unclaimed Dividend with Certificate of Service. See Local Official Form 3011-1(c) ; and
- (c) Order for Payment of Unclaimed Dividend. See Local Official Form 3011-1(d).

(1) **Requirements for *Pro Se* Creditor/Claimant; Self Representation.**

- (A) A motion for payment of an unclaimed dividend must be filed with the clerk. The motion must be accompanied by a certificate signed by the creditor/claimant reflecting that the motion was served on the United States Attorney for the District of South Carolina, 1441 Main Street, Suite 500, Columbia, South Carolina 29201, as required by 28 U.S.C. § 2042, and on the United States Trustee, 1201 Main Street, Suite 2440, Columbia, South Carolina 29201. The motion must state: (1) the name, address, telephone number of the creditor/claimant and a brief history of the creditor/claimant from the filing of the claim to the date of the motion (to establish possible reasons why the fund was not deliverable at the time of original distribution); (2) whether the creditor/claimant believes that any other party may be entitled to the fund; and (3) whether the claim has been assigned to the creditor/claimant. The motion must be accompanied by copies of all documents evidencing any assignment of the claim.
- (B) If the creditor/claimant is:
 - (i) an individual not personally appearing before the clerk or the clerk's authorized designee, the motion must be accompanied by a certificate of a notary public, which bears the seal of the notary, that the notary has examined the motion and documents presented by the creditor/claimant establishing the creditor/claimant's identity, such as a birth certificate, an unexpired passport, a valid driver's license, or an original social security card;
 - (ii) a representative of the estate of a deceased claimant not appearing before the clerk or the clerk's authorized designee, the motion must be accompanied by a

¹ See SC LBR 3011-1

certificate of a notary public, which bears the seal of the notary, that the notary has examined the motion and documents presented by the representative establishing the representative's identity, and the motion must also be accompanied by copies of probate documents establishing the representative's right to act on behalf of the decedent's estate;

- (iii) a corporation or partnership, the motion must be accompanied by an affidavit of a duly authorized corporate officer (if a corporation) or a general partner (if a partnership) certifying that the representative signing the motion is a duly authorized representative of the corporation or partnership. If the creditor/claimant is a successor corporation or partnership, the creditor/claimant shall attach to the motion copies of documents establishing the derivation of the creditor/claimant's entitlement to receive the proceeds of the claim.

(2) **Requirements for Any Other Individual Representing the Interests of a Creditor/Claimant.**

- (A) The representative must be an attorney admitted to practice in accordance with South Carolina Local Bankruptcy Rule 9010-1 and Local Rule 83.I.01 of the Local Rules of the United States District Court for the District of South Carolina.
- (B) The attorney must file a motion with the court for an order authorizing return of an unclaimed dividend as prescribed by Federal Rule of Bankruptcy Procedure 9013.
- (C) The motion must contain the name, address, and telephone number of the creditor/claimant and brief history of the creditor from the filing of the claim to the date of the filing of the motion (to establish possible reasons why the fund was not deliverable at the time of original distribution). If applicable, proof of any sale of the company, new and prior owners and a copy of the terms of any purchase agreement or stipulation by prior and new owners of right of ownership to the unclaimed fund must be provided. If the claim has been assigned to the creditor/claimant, copies of all documents evidencing assignment must be appended to the motion. The motion must state whether or not the moving party believes that any other party may be entitled to the fund.

The motion must be accompanied by a certificate of mailing reflecting that the motion was served on the United States Attorney for the District of South Carolina, 1441 Main Street, Suite 500, Columbia, South Carolina 29201, as required by 28 U.S.C. § 2042, and on the United States Trustee, 1201 Main Street, Suite 2440, Columbia, South Carolina 29201.

- (D) An original power of attorney from the creditor/claimant authorizing the attorney to represent the interests of the creditor/claimant must be attached to the motion.

(3) **Action on motion.**

If no objections are filed with the court within twenty (20) days after the filing of the motion, the motion and accompanying documents will be submitted to the court for determination. If an objection is timely filed with the court, the motion and objection will be forwarded to the court for either scheduling a hearing or making a determination on the motion. If the motion and accompanying documents are not properly executed, and the procedures and requirements outlined above are not met, the court may deny the motion pursuant to SC LBR 3011-1.

Exhibit 7 – Clerk’s Instruction 4001-1: Proceedings to Modify Stay

UNITED STATES BANKRUPTCY COURT
SOUTH CAROLINA

Clerk's Instruction: Proceedings to Modify Stay (CI-4001-1¹)

(a) Section 362 Relief from the Automatic Stay Motions

Hearing dates and locations for scheduling § 362 motions are posted on the court's Internet web site at www.uscourts.gov, on PACER Classic and are available from the Intake Division of the Clerk's Office.

The moving party must:

- (1) Select a Hearing Date: The moving party must select a hearing date from a list of available dates provided by the clerk and must:
 - (A) Schedule the motion in all cases, if it is made in a Columbia Division case, in Columbia before the judge assigned to the case, absent conflict;
 - (B) Schedule the motion in chapters 7, 12 and 13 cases, if it is made in a Charleston or Spartanburg Division case, in the same division as the case; the motion may be scheduled before any judge assigned to sit in that division;
 - (C) Schedule the motion in chapter 11 cases, if it is made in a Charleston or Spartanburg Division case, in the same division as the case and before the judge assigned to the case, absent conflict (see also, paragraph (a)(3) (A) following);
 - (D) Prepare a hearing notice (Local Official Form 4001-1(b) of South Carolina Local Rule Bankruptcy Rule 4001-1 (SC LBR 4001-1)) and indicate the date, time of hearing and hearing location. The hearing notice shall be signed by the attorney representing the movant or by the movant only, if *pro se*.

If the moving party selects a hearing date which is more than 30 days after the moving party makes its request for relief, the moving party is deemed to have consented to a waiver of its rights under § 362(e) relating to the automatic lifting of the stay. The stay remains in effect until further order of the court.

If the moving party fails to select a hearing date, the moving party shall be deemed to have waived the automatic lifting of the stay pursuant to § 362(e) and the court may, in its discretion, either schedule a hearing on the motion or deny the relief sought.

- (2) Serve and Transmit the § 362 Motion: At least fifteen (15) days prior to the scheduled hearing date, the moving party must serve on at least the debtor, attorney for the debtor, any

¹ See SC LBR 4001-1

trustee serving the case, the United States Trustee if a chapter 11 case, any committee elected or appointed in the case, and any other party in interest entitled to notice pursuant to Federal Rule of Bankruptcy Procedure 4001(a) (Fed. R. Bankr. P. 4001(a)):

- (A) the § 362 motion;
- (B) the notice of hearing of the motion (notice should indicate the date, time and location of hearing)(Local Official Form 4001-1(a));
- (C) the moving party's certification of facts (Local Official Form 4001-1(b));
- (D) a blank certification of facts (applicable to service on *pro se* parties only);
- (E) a certificate of service of items a-d.

Note: The motion must be accompanied by a fee prescribed by 28 U.S.C. § 1930(b) and the appendix thereto. **The moving party should determine if the case has been dismissed or closed prior to filing these documents; filing fees will not be refunded for motions filed in dismissed or closed cases.**

(3) Please take notice that if the movant:

- (A) requires a hearing date within the thirty (30) day period before a specific judge (Ch. 11's), and the judge assigned to the case is not scheduled for that city within that time, the movant must contact a courtroom deputy clerk for assistance which may include scheduling the motion for hearing in Columbia, if deemed necessary;
- (B) is aware of another matter in the case previously scheduled, and the movant has selected a § 362 hearing date which is in close proximity (the day before or the day following), the movant may contact a courtroom deputy clerk as indicated above and inquire as to whether or not the § 362 motion can be heard at the same date and time;
- (C) is filing a multi-part motion (§ 362 motion which contains alternative relief i.e., dismissal, conversion), the above procedure applies to noticing the § 362 motion only. Hearing notices and/or hearing dates on the alternative relief must be prepared using the passive notice procedure prescribed by SC LBR 9014-2 and the accompanying "Clerk's Instruction : Motions (Passive Notice) (CI-9014-2)"⁷ or must be obtained from the clerk's office for matters not on the Passive Notice List;
- (D) is unable to select a hearing date which is at least fifteen (15) days from the date of the service/transmittal of the motion for relief from, or modification of, the automatic stay, and it is necessary that the hearing be held within thirty (30) days from the request to lift the stay, the movant may shorten the service/transmittal time frame outlined in "b" of SC LBR 4001-1 and the objection time outlined in "d" of SC LBR 4001-1. If the movant is still unable to select a hearing date under these shortened time frames, the movant must communicate this to the judge's staff .

⁷ Clerk's Instructions are available on the court's Internet Web site at www.scb.uscourts.gov, PACER Classic, and at the Intake Division of the clerk's office.

(b) Consent Agreements

A motion for the approval of an agreement pursuant to Fed. R. Bankr. P. 4001(d) should be prepared using the form approved by the court (Local Official Form 4001-4) of SC LBR 4001-4.

If a debtor fails to comply with the terms of a consent order, which provides for the modification of the 11 U.S.C. § 362 stay, the moving party, who seeks relief from the stay, shall submit a certification of the debtor's noncompliance and a proposed order granting the relief sought. Modification of the stay is effective only upon entry of the order.

(c) Section 1301 Co-Debtor Motions

The movant must:

- (1) Serve and transmit the Motion: The movant should prepare and serve the motion and passive notice of motion giving parties twenty (20) days to object using the form approved by the court (Local Official Form 9014-2(a) of SC LBR 4001-1). The moving party should list the co-debtor in the motion. The moving party should serve on at least the debtor, attorney for the debtor, the trustee, if one is appointed, the co-debtor and any other interested party entitled to notice pursuant to Bankruptcy Rule 4001(a), and simultaneously transmit to the clerk of court for filing:
 - (A) the § 1301 motion;
 - (B) the passive notice of motion which gives parties twenty (20) days to object; and
 - (C) a certificate of service of items (a) and (b).
- (2) Objections: Within twenty (20) days after service of (a) and (b) above on the other parties in interest, each objecting party should serve on the moving party and file with the clerk its objection to the motion and certification of such service.

(d) Conflicts

Operating Order 98-3 of this court, filed August 6, 1998 provides that when a § 362 motion is filed that involves a judge's conflict:

- (1) A case in which Chief Judge J. Bratton Davis has a conflict is to be assigned to Judge John E. Waites;
- (2) A Columbia Division case in which Judge Wm. Thurmond Bishop has a conflict is to be assigned to Chief Judge J. Bratton Davis;
- (3) A Charleston or Spartanburg Division case in which Judge Wm. Thurmond Bishop has a conflict is to be assigned to Judge John E. Waites;
- (4) A case in which Judge John E. Waites has a conflict is to be assigned to Judge Wm. Thurmond Bishop.

Exhibit 8 – Clerk’s Instruction 5001-1: Automation Services

UNITED STATES BANKRUPTCY COURT
SOUTH CAROLINA

Clerk's Instruction: Automation Services (CI-5001-1¹)

The United States Bankruptcy Court for the District of South Carolina has a number of automated services for public access to court records and these are regularly being updated and enhanced. This clerk's instruction addresses the current services and those which will be implemented during calendar year 1999, and the following pages give detailed directions for accessing current and future systems.

The current Voice Case Information System (VCIS) and Public Access to Court Electronic Records (PACER a/k/a "PACER Classic") remain as they always have. There is no access fee for VCIS; the 60¢ per minute access fee for PACER Classic remains in effect.

During calendar year 1999, two new Internet based services are going to be introduced. The first, www.scb.uscourts.gov is a free site (has no access fee by the judiciary). This site will contain information about the court, court calendars, local rules, official forms, clerk's instructions, etc. The current Bulletin Board System (BBS) will be discontinued in September 1999, and its features will be incorporated into this free site.

The second Internet based service, WEB PACER, will offer similar functionality to the current PACER Classic system, but will use a web browser over the Internet. This site will charge an access fee of 7¢ per page². In September, the current Intranet web based imaging system will be discontinued and WEB PACER will be required for case document image access, i.e., users will need an Internet service provider to view documents.

¹ See SC LBR 5001-1 (This document replaces forms B-212:11/30/93 and B-213:7/3/97)

² The 7¢ per page rate was calculated so that, if the same PACER activities were performed on an Internet connection as on PACER Classic dial-up connection, the total charges for each connection, on average, would be the same or less.

Pacer Classic

Pacer (Public Access to Court Electronic Records) allows you to retrieve electronic docket summaries using your computer or terminal modem (up to 33.6K baud) in your office or home virtually 24 hours a day.

You can search for a case by participant name or case number. Once you find the case you want, you can have all the basic case information and a listing of the case docket entries. You can track the progress of a case in seconds.

All case information entered during the day is updated into PACER that night. Case information for active and recently closed cases is available, without making telephone calls or trips to the court.

PACER FEATURES

Access to daily case report of new bankruptcy filings

PACER/Court News

Retrieve official registry of claims/interests for a case (updated weekly)

View docket entries in reverse chronological order

Select, if desired, only a portion of lengthy docketed cases

Access to archived case summary information

Local Rules

Clerk's Instructions

Attorney Desk Reference Manual

We encourage you to consider registering for PACER. It will save much time and will permit you to "track" a case on your own PC. You will be able to determine whether an order you are interested in has been docketed -- if not, you can check again the next day.

The cost for this service is 60¢ per minute (established by the Judicial Conference of the United States) -- you should be able to download 3-4 cases from PACER per minute. To register, contact: PACER Billing Center, PO Box 780549, San Antonio, Texas 78278-0549 (telephone: 1-800-676-6856). You will receive your PACER system Login ID and Password, billing information and PACER User Documentation directly from the Billing Center.

PACER is available at many appellate, district and bankruptcy courts -- a list of those courts and access telephone numbers is available from the Intake Division of the clerk's office.

Pacer Classic con't

Requirements

Personal Computer

Modem

Communications Software (Hyperterminal, PCAnywhere, ProComm, etc)

PACER Account (available from San Antonio Billing Center 800-676-6856)

Cost

60¢ per minute

Availability

Since 1993

Web Pacer

Accessible via the World Wide Web at pacer.scb.uscourts.gov

Features

Case Information

Summary

Case Status

Docket Sheet

Parties

DOCUMENT IMAGES!*

Deadlines/Schedules

New Cases Report

User selectable date range

Mailing Matrices

Requirements

PC with Windows 95+ or NT

PACER Account (available from San Antonio Billing Center 800-676-6856)

Internet Access

Web Browser (such as Netscape or Internet Explorer)

Cost

7¢ per page

Availability

6/1/1999

Document Images Feature 9/1/1999

- * The court has implemented a document imaging system. Basically, users of the imaging system will be able to see a “picture” of any imaged document. All documents filed after January 1, 1997, in bankruptcy cases and adversary proceedings will be imaged, except claims in chapter 7 no asset cases and chapter 13 cases, and correspondence in all cases. Claims filed in chapter 7 and 11 cases will also be imaged. The public may access these images while at the courthouse and on Web PACER.

Internet Web Site

Accessible via the world wide web at www.scb.uscourts.gov

Features

Local Rules

Clerk's Instructions

Attorney Desk Reference Manual

Judge's Opinions

Court Info (Phone Numbers, Clerks Instructions, etc)

Judge's Court Calendar

362 Motions Calendar

Passive Notice Calendar

Downloads (Adobe Reader, PaperPort Viewer, Forms, Reference Manuals, etc)

Requirements

PC with Windows 95+ or NT

Internet Access

Web Browser (such as Netscape or Internet Explorer)

Cost

Free

Availability

Now

Judge Opinions (To be determined)

VCIS (Voice Case Information System)

Bankruptcy case information available using touch tone phone. You may search for information by Case Number, Party Name, or SSN/Tax ID.

803-765-5211 or 1-800-669-8767

Features

Case Name(s)	Case Number	Bankruptcy Chapter
Filing Date	Asset Status	Attorney for Debtor
Name of Trustee	Name of Judge	Current Case Status
Next Hearing Info	Discharge Date	Closing Date

Requirements Touch tone phone

Cost Free

Availability

Now

INSTRUCTIONS FOR USING
VOICE CASE INFORMATION SYSTEM
(VCIS)

- a. DIAL (803) 765-5211 or 1-800-669-8767 for VCIS for the United States Bankruptcy Court for the District of South Carolina.
- b. ENTER THE NAME of the debtor or a party to an adversary proceeding.

Names are given to the computer by pressing the keys on a touch-tone type telephone that correspond to the letters in the name. Use the "1" key for the letters "Q" and "Z", and skip any characters that are not letters, such as spaces, apostrophes, and dashes.

1. If the case is filed by an individual, enter the last name followed by the first name. For example, to enter the "Joe O'Riley", the following keys should be pressed:

O	R	I	L	E	Y	J	O	E	
MNO	PRS	GHI	JKL	DEF	WXY	JKL	MNO	DEF	#
6	7	4	5	3	9	5	6	3	

2. If the case is filed by a business, enter the business or company name. Suffixes such as "Inc." or "Corp." should be omitted. For example, to enter the name "Joe's Subs, Inc.", the following keys should be pressed:

J	O	E	S	S	U	B	S	
JKL	MNO	DEF	PRS	PRS	TUV	ABC	PRS	#
5	6	3	7	7	8	2	7	

- c. PRESS THE # KEY to tell the computer that you have finished entering the name.
- d. LISTEN and the computer will read information about the case. If more than one case is found which matches the name entered, information will be ready about each case. If the caller is not interested in the case being read, any key may be pressed to go the next case.
- e. If a user knows the procedures to follow, the user can go directly to a name search without listening to the full instructions-- touch 1 for VCIS help; touch 2 for searching cases on VCIS, touch 3 for information about PACER (Public Access to Court Electronic Records).

Exhibit 9 – Clerk’s Instruction 5005-1: Filing of Documents in Clerk’s Office

UNITED STATES BANKRUPTCY COURT
SOUTH CAROLINA

Clerk's Instruction: Filing of Documents in Clerk's Office (CI-5005-1¹)

All papers, including proposed orders, shall be filed with or submitted to the clerk's office, rather than directly to a bankruptcy judge. In an emergency after office hours, papers may be filed by making prior arrangements to do so during public business hours by contacting the clerk or chief deputy. The clerk's office shall perform any necessary processing of papers before forwarding the papers to a bankruptcy judge for consideration.

Filing of documents in the United States Bankruptcy Court may be made at the clerk's office from 9:00 A.M. to 4:30 P.M. on all days except Saturdays, Sundays, the legal holidays listed in Federal Rules of Bankruptcy Procedure 9006(a) (Fed. R. Bankr. P. 9006(a)), and other times as may be ordered by the court. Personnel specifically assigned to receive petitions and documents are required to verify that certain rules and requirements have been met.

Should expedited processing of papers be required during a term of court in a division of the district not regularly staffed by the clerk, the court may, upon a showing of compelling need by a party, direct the courtroom deputy clerk to file a judgment, final order or other paper. The party requesting such action shall arrange for prompt service of the paper and shall execute and deliver a certificate of service to the courtroom deputy clerk at the time of filing.

The clerk will not accept for filing any petition or document not accompanied by the filing fee prescribed by 28 U.S.C. § 1930 and the Appendix thereto (Bankruptcy Court Miscellaneous Fee Schedule).

The following criteria regarding the form of documents presented for filing with this court must be met. Should documents submitted for filing not meet the following criteria or not contain the following information, the court may issue an Order Returning Document(s) or an Order Striking Document(s). (See South Carolina Local Bankruptcy Rule 5005-1 (SC LBR 5005-1)).

(a) All Documents.

- (1) If a copy acknowledging receipt or filing is desired, an extra copy must be provided (in addition to the numbers indicated under the subsections of this instruction) along with a stamped, self-addressed envelope (an envelope large enough to accommodate the return copies).
- (2) The signature of the attorney must always be followed by his/her District Court I.D. number, printed, (or typed) name, address, telephone number and facsimile number.
- (3) All signatures of creditors must be followed by his/her typed or printed name and address.

¹See SC LBR 5005-1

- (4) All documents must show the case name, case number with judge's initials and chapter.

(b) Bankruptcy Petitions.

- (1) Filing Fee to be paid (28 U.S.C. § 1930(a)):

Total fees (including administrative fee and trustee surcharge fee):

(A)	Chapter 7	\$175.00
(B)	Chapter 9	\$330.00
(C)	Chapter 11	\$830.00
(D)	Chapter 12	\$230.00
(E)	Chapter 13	\$160.00

Installment payments are authorized only in voluntary cases filed by an individual.

Note: If paid in installments, the filing fee must be paid in full before any payment is made to an attorney or other person rendering services to the debtor in connection with the case. (Fed. R. Bankr. P. 1006(b)(3)).

- (2) An administrative fee of \$30.00 is required to be paid simultaneously with the filing of the petition in chapter 7, 9, 11, 12 and 13 cases; and a trustee surcharge fee of \$15.00 is required to be paid simultaneously with the filing of the petition in chapter 7 cases. (28 U.S.C. § 1930(b)).
- (3) The chapter number under which the petition is filed (7, 9, 11, 12 or 13) must be specified.
- (4) The address of the debtor must be specified, and the social security number and tax identification number (if one is assigned) of the debtor must be specified. (Fed. R. Bankr. P. 1005).
- (5) All petitions must be submitted with a mailing matrix in accordance with SC LBR 1007-1.
- (6) In chapter 11 cases, a list of the twenty (20) largest unsecured creditors must be submitted (Fed. R. Bankr. P. 1007(d)).
- (7) The signature of the petitioner must be on the original petition. (Unless power of attorney is used, see SC LBR 1002-1) (Fed. R. Bankr. P. 1008).
- (8) The requisite number of copies of all petitions is:
 - (A) Chapter 7 - an original and two copies
 - (B) Chapter 9 - an original and five copies
 - (C) Chapter 11 - an original and four copies

- (D) Chapter 12 - an original and three copies
 - (E) Chapter 13 - an original and one copy
- (9) The original petition and all copies thereof in all cases shall include the attorney disclosure statement of compensation. (Fed. R. Bankr. P. 2016(b)).
 - (10) A single petition in the name of both an individual and a corporation or one in the name of two or more corporations shall not be submitted for filing. Separate petitions must be filed for each separate legal entity, and appropriate motions to consolidate made in accordance with Fed. R. Bankr. P.1015. (The only joint case authorized under the United States Bankruptcy Code is that of a husband and wife filing a joint petition (11 U.S.C. § 302)).
 - (11) A voluntary petition or consent to an involuntary petition filed by a corporation shall be accompanied by a copy of the corporate resolution or other appropriate authorization, duly attested to, authorizing such filing.
- (c) Conversions.
- (1) Pursuant to 28 U.S.C. § 1930(b) a \$15 trustee surcharge fee is due:
 - (A) By the debtor when filing a notice of conversion of a Chapter 11, 12 or a chapter 13 case to chapter 7.
 - (B) By the movant when filing a motion for conversion to a case to a chapter 7.
 - (2) Pursuant to 28 U.S.C. § 1930(b) for converting on request of the debtor a case under chapter 7 or 13 to a case under chapter 11, the debtor shall pay a fee of \$400.00 which is due within forty-eight hours (48) of the signing of the order granting the conversion.
- (d) Proofs of Claim or Interest.
- (1) Number of copies:
 - (A) Chapter 7, 9, 11 and 12 - original only
 - (B) Chapter 13 - original and one copy
 - (2) The signature of the claimant must be on the original claim.
 - (3) The amount of the claim must be specified.
 - (4) The case name, case number (which includes judge's initials), trustee's initials, and chapter under which the bankruptcy case is filed (7, 9, 11, 12 and 13) must be specified on the form.
- (e) Adversary Proceedings.
- (1) An original and two copies of all documents must be filed.

- (2) Signature of attorney for plaintiff/defendant must be on original documents.
 - (3) The chapter under which the bankruptcy case is filed must be specified.
 - (4) In chapter 7 or 13 cases, a filing fee of \$150.00 must accompany the complaint unless it is filed by the debtor or trustee.¹
 - (5) In chapter 11 cases, a filing fee of \$150.00 must accompany the complaint.²
 - (6) The adversary proceeding cover sheet must accompany the complaint.
 - (7) The original complaint shall contain the bankruptcy case number. All subsequent documents shall, in addition, contain the adversary proceeding number.
- (f)** 11 U.S.C. § 362 Motions.
- (1) An original of the document must be filed.
 - (2) Signature of attorney must be on original document.
 - (3) The \$75 filing fee must accompany the motion. Appendix to 28 U.S.C. § 1930)
- (g)** Applications.
- (1) Chapter 7 or chapter 12:
 - (A) An original and two copies of an application must be filed.
 - (B) Signature of attorney must be on original documents.
 - (2) All other chapters:
 - (A) An original and one copy of an application must be filed.
 - (B) Signature of attorney must be on original documents.
- (h)** Motions to Reopen a Bankruptcy Case.
- (1) Chapter 7 or chapter 12:
 - (A) An original and two copies of the motion must be filed.
 - (B) Signature of attorney must be on original documents.

¹If a trustee or the debtor in possession is the plaintiff, the fee is payable only from the estate and to the extent there is any estate realized. An affidavit should accompany the adversary proceeding which attests to the reason the fee is absent whenever the adversary proceeding is submitted without the applicable fee.

²Ibid.

- (2) All other chapters:
 - (A) An original and one copy of the motion must be filed.
 - (B) Signature of attorney must be on original documents.
- (3) The following filing fee must be paid upon the filing of the motion: (Appendix to 28 U.S.C. § 1930)
 - (A) Chapters 7 and 13 - \$130.00
 - (B) Chapter 9 - \$300.00
 - (C) Chapter 11 - \$800.00
 - (D) Chapter 12 - \$200.00
- (i) Lien Avoidance and Valuation of Security Motions.
 - (1) An original of the motion and accompanying documents required by SC LBR 4003-1 and 3012-1 must be filed. (See SC LBR 3015-1 and subparagraph (k) below for requirements of such motions in chapter 13 cases).
 - (2) Signature of attorney for movant must be on original documents.
- (j) Plans.
 - (1) Chapter 11 - original and four copies.
 - (2) Chapter 12 - original and three copies.
- (k) Notice, Chapter 13 Plan and Related Motions.
 - (1) Original and one copy.
- (l) Monthly Reports.
 - (1) Chapter 11 - original and one copy.
 - (2) Chapter 12 - original and two copies.

Exhibit 10 – Clerk’s Instruction 8006-1: Records and Issues on Appeal

UNITED STATES BANKRUPTCY COURT**SOUTH CAROLINA****Clerk's Instruction: Records and Issues on Appeal (CI-8006-1¹)**

The procedures to be followed by any party seeking to file an appeal from a judgment, order, or decree of a bankruptcy judge to a district court are as follows:

- (a) The notice of appeal shall be filed with the clerk of this court within ten (10) days of the date of the entry of the judgment, order or decree appealed from. A notice of appeal filed after the announcement of a decision or order but before entry of the judgment, order, or decree shall be treated as filed after such entry and on the day thereof. The notice of appeal shall (1) conform to the appropriate Official Form; (2) contain the names of all parties to the judgment, order, or decree appealed from and the names, addresses and telephone numbers of their respective attorneys; and (3) be accompanied by the prescribed filing fee.
- (b) The bankruptcy judge may extend the time for filing the notice of appeal pursuant to the provisions of Federal Rule of Bankruptcy Procedure 8002(c) (Fed. R. Bankr. P. 8002(c)).
- (c) A motion for a stay of the judgment, order, or decree of a bankruptcy judge, for approval of a supersedeas bond, or for other relief pending appeal must ordinarily be presented to the bankruptcy judge in the first instance pursuant to the provisions of Fed. R. Bankr. P. 8005.
- (d) Within ten (10) days after filing the notice of appeal as provided by Fed. R. Bankr. P. 8001(a), entry of an order granting leave to appeal, or entry of an order disposing of the last timely motion outstanding of a type specified in Fed. R. Bankr. P. 8002(b), whichever is later, the appellant shall file with the clerk of this court and serve on the appellee a designation of the items to be included in the record on appeal and a statement of the issues to be presented.
- (e) Within ten (10) days after the service of the appellant's statement the appellee may file and serve on the appellant a designation of additional items to be included in the record on appeal.
- (f) Any party intending not to file an additional designation of contents (after the appellant's designation) shall complete and file with the clerk a Statement as to Record on Appeal within ten (10) days after service of the appellant's designation. This form is provided to the parties to the appeal by the clerk's office and is used if a party does not intend to file an additional designation of the record or statement of issues.
- (g) All requests for transcripts shall be made directly to the court's electronic court recording operator (ECRO) and must be made in writing. The estimated cost of the transcript will be provided by the ECRO and must be paid in advance of its preparation. The search fee is specified in the Bankruptcy Court Miscellaneous Fee Schedule, (Appendix to 28 U.S.C. § 1930(b)) and will be charged for any

¹See SC LBR 8006-1

transcript request when the transcript request is completed and subsequently canceled. All requests for tape duplications of any matter heard by the court shall be made directly to the court's ECRO. A duplication fee specified in the Bankruptcy Court Miscellaneous Fee Schedule (per tape) must be paid to the clerk in advance.

- (h) The clerk shall, pursuant to Fed. R. Bankr. P. 8007(c), retain in the court file all original documents constituting the record on appeal. Following the final disposition of the appeal, any exhibits which were a part of the record shall be disposed of pursuant to SC LBR 9017-1.
- (i) The copy of the record to be transmitted to the District Court shall be furnished by the parties to the appeal by either:
 - (1) providing the clerk with copies of those documents designated by the party for transmission to the District Court; or,
 - (2) requesting the clerk to make the copies and paying the fifty cents (50¢) per page copy cost for each page designated as part of the record.

Failure to provide the copies, or to request the clerk to make the copies, by the time the record is otherwise ready for transmittal to the District Court, will result in the copies being made and the designating parties being billed at fifty cents (50¢) per page.

- (j) The charges set forth in paragraph (i)(2) above shall be paid not later than twenty (20) days after a statement of charges is mailed to the designating party by the clerk of the bankruptcy court.

Exhibit 11 – Clerk’s Instruction 9014-2: Motions on Passive Notice

**United States Bankruptcy Court
South Carolina**

Clerk's Instruction: Motions on Passive Notice - CI-9014-2¹

Special motion days are scheduled each month. Counsel should make a reasonable and good faith effort to coordinate hearings on motions with the calendars of opposing counsel and the trustee in the case.

Hearing dates and locations for scheduled motions noticed passively are posted on the court's Internet web site at www.scb.uscourts.gov.², on PACER Classic, are available from the Intake Division of the clerk's office, published in the *Disclosure Statement* publication of the South Carolina Bankruptcy Law Association, and are posted outside the courtrooms. If the movant anticipates that a hearing may take one (1) hour or more, the movant should contact the Judge's law clerk or a courtroom deputy clerk to secure an alternative hearing date versus choosing one from the passive notice calendar dates.

The moving party must:

- (a) **Select a Hearing Date:** The moving party must select a hearing date from the calendar provided by the clerk which indicates dates designated as days available to schedule passive notice motions entitled "Motions Days". If the judge has more than one hearing date within the applicable time frames, the movant may select any of those dates. No hearing date further than seventy-five (75) days from the service of the motion may be used.
- (1) Select a hearing date no less than ten (10) days following the last day for objections(as outlined in item "c" below).
 - (2) Schedule the motion in all cases in the same division as the case venue unless otherwise approved by the court.
 - (3) Prepare a hearing notice (Local Official Form 9014-2(a)) and indicate the date, time of hearing and hearing location (complete address)). The hearing notice shall be signed by the attorney representing the movant or by the movant only, if *pro se*.
- (b) **Serve and Transmit the Motion:** No more than Seventy-five (75) days prior to the scheduled hearing date, the moving party must serve on at least the debtor, attorney for the debtor, the trustee, if one is so appointed, and any other interested party entitled to notice and must simultaneously transmit to the clerk of court for filing:

- (1) The motion;³

¹ See SC LBR 9014-2

² For detailed information and phone numbers in order to access PACER Classic or the court's Internet web site at www.scb.uscourts.gov, refer to Clerk's Instruction: Automation Services - CI-5001-1.

³ For Item 16 on the Passive Notice List (Applications for Fees) only the form notice must be served on all creditors and parties in interest. The United States Trustee must be served with the complete motion/application.

- (2) The notice of hearing of the motion;
 - (3) A proposed order;
 - (4) A certificate of service of items 1-3.
- (c) Response/Return or Objection to Motion: Any response, return and/or objection to the motion must be served no later than twenty (20)* days following the service date of the motion. The response, return and/or objection should be served on all parties in interest and must simultaneously be transmitted to the clerk of court for filing.
- (1) The hearing notice which gives the date, time and location of the hearing will be calendared when a response, return and/or objection, or other request for hearing is timely filed, unless the Judge directs otherwise. Copies of court calendars are provided to members of the public and the bar as a courtesy (they are posted on PACER Classic and the court's Internet web site at www.scb.uscourts.gov); however, they should not be relied upon as absolute if there is a notice to the contrary, or a rule or procedure (such as this) which takes precedence.
 - (2) If the objection times expires without the filing of an response, return and/or objection or other request, the proposed order will be promptly submitted to the judge for his consideration. If the matter is otherwise settled between the parties, the courtroom deputy clerk shall be immediately advised by telephone and a consent order shall be submitted at or before the scheduled hearing date, or the terms of settlement shall be announced at the hearing and an order entered.
- (d) Items on the current passive notice list, Local Official Form 9014-2(b), should be noticed and scheduled by the moving party using this Clerk's Instruction. The motions/applications which are marked with an asterisk have existing local official forms, which contain substantive language which must be included in either the notice or the separate motion/application.
- * The minimum time period for response, return and/or an objection to a motion to Reopen/Reconsider is fifteen (15) days.
 - * The minimum time period for response, return and/or an objection to claim is thirty (30) days. See Federal Rule of Bankruptcy Procedure 3007. (Government Agency - thirty-five (35) days).
 - * The minimum time period for response, return and/or an objection to application for final decree in a chapter 11 case is thirty (30) days.
 - * The minimum time period for response, return and/or an objection to a motion to avoid lien or motion to establish value is twenty-five (25) days.
 - * The minimum time period for response, return and/or an objection to all other motions/applications is twenty (20) days.

Exhibit 12 – Local Official Form 9014-2(b) To SC LBR 9014-2

LOCAL OFFICIAL FORM 9014-2(b) TO SC LBR 9014-2
UNITED STATES BANKRUPTCY COURT - DISTRICT OF SOUTH CAROLINA
MOTIONS/APPLICATIONS APPROVED FOR "PASSIVE" NOTICE
(Notice and Opportunity for Hearing)

1. Motion to dismiss by chapter 7 debtor
2. Motion to dismiss by chapter 11 debtor
3. Motion to avoid lien (chapters 7, 11 and 12)(SC LBR 4003-1)*
4. Motion to value collateral (chapters 7, 11 and 12)(SC LBR 3012-1)*
5. Motion to modify codebtor stay under 11 U.S.C. §1301
6. Trustee's or debtor's motion to sell, use or lease property (SC LBR 6004-1)*
7. Motion to abandon property (SC LBR 6007-1)*
8. Application for final decree and notice of filing final reports in chapter 11 case (SC LBR 2081-1)
9. Objection to proof of claim or interest in chapter 7 (asset and no asset) cases, chapter 13 cases and chapter 11 cases
10. Motion for moratorium on payments under chapter 12 and chapter 13
11. Motion to modify confirmed plan under chapter 12
12. Motion to change venue (SC LBR 1014-1)
13. Debtor's motion to convert a chapter 11 case to a chapter 12 or 13 case (unless case has previously been converted, in which event hearing will be scheduled)
14. Notice of agreement regarding modification of automatic stay, cash collateral, adequate protection, or obtaining credit pursuant to FRBP 4001(d) (SC LBR 4001-1)*
15. Motion to waive the requirements of filing monthly reports in chapter 11 cases (SC LBR 2015-1)
16. Applications for fees¹
17. Motion for approval of settlement or compromise of controversy pursuant to FRBP 9019 (SC LBR 9019-1)*
18. Application for payment of administrative claims or interests²
19. Debtor's motion to divide a joint case filed under 11 U.S.C. §302 into two separate cases (NOTE: If motion is granted, a filing fee equal to half the current filing fee for the chapter under which the joint case was commenced is due) (SC LBR 1015-1)
20. Motion for joint administration or consolidation or motion to separate a jointly administered case pursuant to FRBP 1015 (SC LBR 1015-1)
21. Motions by the debtor to assume or reject leases/executory contracts pursuant to 11 U.S.C. §365
22. Motions to Redeem in chapter 7 cases 11 U.S.C. § 722
23. Motion of Intent to Collect Child Support (SC LBR 4001.3)*
24. Motions to Reopen (SC LBR 5010-1)*
25. Motions to Incur Debt (Chapter 13 Cases) [Cases assigned to Judges Waites only]
26. Trustee's Notice of Filings in Chapter 7 Asset Case
27. Trustee's Notice of Filing Final Report in Chapter 12 Case

* See Clerk's Instruction 9014-2

Revision Date 7/19/00

¹ A summary of the application identifying the applicant and the amount requested must be incorporated into the notice (LOF 9014-2(a)). The application and proposed order are not required to be served on all creditors.

² Ibid.

Exhibit 13 - Trustee List

Chapter 7

Robert F. Anderson PO Box 76 Columbia, SC 29202	803-252-8600	Columbia Division (3)
Kevin Campbell PO Box 684 Mount Pleasant, SC 29465	843-884-6874	Charleston Division (2)
John K. Fort Post Office Box 426 Spartanburg, SC 29304	864-573-5311	Spartanburg Division (7)
W. Ryan Hovis PO Box 10269 Rock Hill, SC 29731	803-366-1916	Columbia Division (3)
L. Winston Lee 10 Brookside Circle Greenville, SC 29609	864-242-6032	Spartanburg Division (7)
Ralph C. McCullough, II PO Box 1799 Columbia, SC 29202	803-765-2935	Columbia Division (3)

Chapter 13

Trustee to be appointed by the U. S. Trustee		Columbia Division (3)
R. Geoffrey Levy 1320 Richland Street PO Box 2066 Columbia, SC 29202	803-779-5180	Charleston Division (2)
Wm. Keenan Stephenson, Jr. 2020 Assembly Street PO Box 8477 Columbia, SC 29202	803-254-2981 (Debtor) 803-254-3105 (Creditor)	Columbia and Spartanburg Divisions (3), (7)

Assistant US Trustee

Joseph F. Buzhardt, III
1201 Main Street
Suite 2440, Affinity Building
Columbia, SC

803-806-3001

Exhibit 14 - Relief From Stay Court Order

UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF SOUTH CAROLINA

N RE:) CHAPTER _____
)
) CASE NO: _____
)
) ORDER RE: RELIEF FROM STAY
)
)
 Debtor(s).)
 _____)

Before the court is the 11 U.S.C. §362 motion of
 _____, movant filed on _____,
 199__.

After notice and a hearing (see §362(e)), **IT IS ORDERED, ADJUDGED AND DECREED as indicated below:**

___ RS-I The motion is granted and judgment is hereby ordered for movant.

___ RS-II The motion is denied and judgment to that effect is hereby ordered.

___ RS-III The settlement agreement announced by the parties at the hearing is approved, subject to a proposed consent (agreed upon) order setting forth the terms of the agreement being submitted to this court within thirty (30) days from the date of this order. Absent the submission and entry of a consent order within thirty (30) days of this date, the stay is terminated pursuant to 11 U.S.C. §362(e). Should the action or inaction of any party unduly delay the timely submission of the order, appropriate sanctions for such conduct may be considered by the court.

___ RS-IV The settlement agreement reached between the parties is approved, subject to compliance with the notice requirements of Bankruptcy Rule 4001. If, following such compliance, there is no objection, the movant shall submit to the court a proposed consent order, setting forth the terms of the agreement. If an objection is filed, a hearing will be scheduled on the objection. Inasmuch as the movant has waived the automatic lifting of the §362(a) stay, the stay will remain in effect

until further order of this court.

___ RS-V At the request of the parties, the automatic stay will remain in effect until further order of this court or until the case is closed or dismissed, whichever first occurs.

___ RS-VI The hearing on the motion today is a preliminary hearing and, because there is a reasonable likelihood that the party opposing the relief from the stay will prevail at the conclusion of the final hearing, or by consent of the parties, the stay shall continue in effect until the conclusion of a final hearing which shall be commenced on the date and time announced in court at today's hearing.

___ RS-VII At the request of a party in interest and the automatic lifting of the stay having been waived by the movant, the hearing scheduled for today is continued until the date and time heretofore announced in court at today's hearing.

United States Bankruptcy Judge

Columbia, South Carolina

_____, 199__

Exhibit 15 - C Order

N RE:) CHAPTER 13
)
) CASE NO: _____
)
) ORDER
)
)
 Debtor(s) .)
)

C-III The plan does not comply with the requirements of Chapter 13; therefore, confirmation of the plan as presently filed is denied. The debtor(s) is/are given ten (10) days from the date of this order within which to propose and file an amended plan, along with an affidavit which certifies that a copy of such amended plan was mailed to the holder of any claim whose rights may have been adversely affected by any amendment to the plan as previously filed. If

no such amended plan and/or certificate of mailing is filed, this case may be dismissed without further notice or hearing. If filed,

- _____ A. The amended plan will be confirmed without further notice or hearing upon the trustee's recommendation.
- _____ B. The amended plan will be confirmed without further notice or hearing if the objecting creditors consent thereto and the trustee recommends confirmation thereof.

C-IV The plan does not comply with the requirements of Chapter 13; therefore, confirmation is denied and

- _____ A. The case is hereby dismissed.
- _____ B. The case will be dismissed unless a motion to convert is filed within ten (10) days.

If the filing fee in the above captioned case has not been paid in full, the debtor(s) is/are ordered not to file, another petition for relief under the Bankruptcy Code (11 U.S.C. §101 et seq.).

Any other conditions incident to the confirmation which may have been orally imposed by the court during the hearing are hereby made a part of this order.

AND IT IS SO ORDERED.

United States Bankruptcy Judge

Columbia, South Carolina

_____, 199__

Exhibit 16 - Bankruptcy Court Fee Schedule

28 U.S.C. § 1930. Bankruptcy fees

- (a) Notwithstanding § 1915 of this title, the parties commencing a case under title 11 shall pay to the clerk of the district court or the clerk of the bankruptcy court, if one has been certified pursuant to § 156(b) of this rule, the following fees:
- (1) For a case commenced under chapter 7 or 13 of title 11, \$155.
 - (2) For a case commenced under chapter 9 of title 11, \$300.
 - (3) For a case commenced under chapter 11 of title 11 that does not concern a railroad, as defined in § 101 of title 11, \$800.
 - (4) For a case commenced under chapter 11 of title 11 concerning a railroad, as so defined, \$1,000.
 - (5) For a case commenced under chapter 12 of title 11, \$200.
 - (6) In addition to the filing fee paid to the clerk, a quarterly fee shall be paid to the United States trustee, for deposit in the Treasury, in each case under chapter 11 of title 11 for each quarter (including any fraction thereof) until the case is converted or dismissed, whichever occurs first. The fee shall be \$250 for each quarter in which disbursements total less than \$15,000; \$500 for each quarter in which disbursements total \$15,000 or more but less than \$75,000; \$750 for each quarter in which disbursements total \$75,000 or more but less than \$150,000; \$1,250 for each quarter in which disbursements total \$150,000 or more but less than \$225,000; \$1,500 for each quarter in which disbursements total \$225,000 or more but less than \$300,000; \$3,750 for each quarter in which disbursements total \$300,000 or more but less than \$1,000,000; \$5,000 for each quarter in which disbursements total \$1,000,000 or more but less than \$2,000,000; \$7,500 for each quarter in which disbursements total \$2,000,000 or more but less than \$3,000,000; \$8,000 for each quarter in which disbursements total \$3,000,000 or more but less than \$5,000,000; \$10,000 for each quarter in which disbursements total \$5,000,000 or more. The fee shall be payable on the last day of the calendar month following the calendar quarter for which the fee is owed.
- An individual commencing a voluntary case or a joint case under title 11 may pay such fee in installments. For converting, on request of the debtor, a case under chapter 7, or 13 of title 11, to a case under chapter 11 of title 11, the debtor shall pay to the clerk of the court a fee of \$400.
- (b) The Judicial Conference of the United States may prescribe additional fees in cases under title 11 of the same kind as the Judicial Conference prescribes under § 1914(b) of this title.
- (c) Upon the filing of any separate or joint notice of appeal or application for appeal or upon the receipt of any order allowing, or notice of the allowance of, an appeal or a writ of certiorari \$5 shall be paid to the clerk of the court, by the appellant or petitioner.

- (d) Whenever any case or proceeding is dismissed in any bankruptcy court for want of jurisdiction, such court may order the payment of just costs.
- (e) The clerk of the court may collect only the fees prescribed under this section.

Appendix to 28 U.S.C. § 1930
Bankruptcy Court Miscellaneous Fee Schedule

Following are fees to be charged for services to be performed by clerks of the bankruptcy courts. No fees are to be charged for services rendered on behalf of the United States, with the exception of those specifically prescribed in items 1, 5 and 23, or to bankruptcy administrators appointed under Public Law No. 99-554, § 302(d)(3)(I). No fees under this schedule shall be charged to federal agencies or to programs which are funded from judiciary appropriations, including, but not limited to, agencies, organizations, and individuals providing services authorized by the Criminal Justice Act, 18 U.S.C. § 3006A.

- (1) For reproducing any record or paper, 50 cents per page. This fee shall apply to paper copies made from either: (1) original documents; or (2) microfiche or microfilm reproductions of the original records. This fee shall apply to services rendered on behalf of the United States if the record or paper requested is available through electronic access.
- (2) For certification of any document or paper, whether the certification is made directly on the document or by separate instrument, \$5. For exemplification of any document or paper, twice the amount of the charge for certification.
- (3) For reproduction of magnetic tape recordings, either cassette or reel-to-reel, \$15 including the cost of materials.
- (4) For amendments to a debtor's schedules of creditors or lists of creditors, \$20 for each amendment, provided the bankruptcy judge may, for good cause, waive the charge in any case.
- (5) For every search of the records of the bankruptcy court conducted by the clerk of the bankruptcy court or a deputy clerk, \$15 per name or item searched. This fee shall apply to services rendered on behalf of the United States if the information requested is available through electronic access.
- (6) For filing a complaint, a fee should be collected in the same amount as the filing fee prescribed in 28 U.S.C. § 1914(a) for instituting any civil action other than a writ of habeas corpus. If the United States, other than a United States Trustee acting as a trustee in a case under title 11, or a debtor is the plaintiff, no fee is required. If a trustee or debtor in possession is the plaintiff, the fee should be payable only from the estate and to the extent there is any estate realized. If a child support creditor or

its representative is the plaintiff, and if such plaintiff files the form required by § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

- (7) For filing or indexing any paper not in a case or proceeding for which a filing fee has been paid, including registering a judgment from another district, \$20.
- (8) In all cases filed under title 11, the clerk shall collect from the debtor or the petitioner a miscellaneous administrative fee of \$30. This fee may be paid in installments in the same manner that the filing fee may be paid in installments, consistent with the procedure set forth in Federal Rule of Bankruptcy Procedure 1006.
- (8.1) Upon the filing of a petition under chapter 7 of the Bankruptcy Code, the petitioner shall pay \$15 to the clerk of the court for payment to trustees serving in the case as provided in 11 U.S.C. § 330(b)(2). An application to pay the fee in installments may be filed in the manner set forth in Federal Rules of Bankruptcy Procedure 1006(b).
- (8.2) Upon the filing of a motion to convert a case to chapter 7 of the Bankruptcy Code, the movant shall pay \$15 to the clerk of court for payment to the trustees serving in cases as provided in 11 U.S.C. § 330(b)(2). Upon the filing of a notice of conversion pursuant to § 1208(a) or § 1307(a) of the Code, \$15 shall be paid to the clerk of the court for payment to trustees serving in cases as provided in 11 U.S.C. § 330(b)(2). If the trustee serving in the case before the conversion is the movant, the fee shall be payable only from the estate that exists prior to conversion.
- (9) For filing a motion to reopen a Bankruptcy Code case, a fee shall be collected in the same amount as the filing fee prescribed by 28 U.S.C. § 1930(a) for commencing a new case on the date of reopening, unless the reopening is to correct an administrative error or for actions related to the debtor's discharge. The court may waive this fee under appropriate circumstances or may defer payment of the fee from trustees pending discovery of additional assets.
- (10) Repealed.
- (11) Repealed.
- (12) For each microfiche sheet of film or microfilm jacket copy of any court record, where available, \$3.
- (13) For retrieval of a record from a Federal Records Center, National Archives, or other storage location removed from the place of business of the court, \$25.
- (14) For a check paid into the court which is returned for lack of funds, \$25.

- (15) Repealed.
- (16) For docketing a proceeding on appeal or review from a final judgment of a bankruptcy judge pursuant to 28 U.S.C. § 158(a) and (b), the fee shall be the same amount as the fee for docketing a case on appeal or review to the appellate court as required by Item 1 of the Courts of Appeals Miscellaneous Fee Schedule. A separate fee shall be paid by each party filing a notice of appeal in the bankruptcy court, but parties filing a joint notice of appeal in the bankruptcy court are required to pay only one fee.
- (17) For filing a petition ancillary to a foreign proceeding under 11 U.S.C. § 304, \$500.
- (18) The court may charge and collect fees, commensurate with the cost of printing, for copies of the local rules of court. The court may also distribute copies of the local rules without charge.
- (19) The clerk shall assess a charge for the handling of registry funds deposited with the court, to be assessed from interest earnings and in accordance with a detailed fee schedule to be issued by the Director of the Administrative Office of the United States Courts.
- (20) When a joint case filed under § 302 of title 11 is divided into two separate cases at the request of the debtor(s), a fee shall be charged equal to one-half the current filing fee for the chapter under which the joint case was commenced.
- (21) For filing a motion to terminate, annul, modify, or condition the automatic stay provided under § 362(a) of title 11, a motion to compel abandonment of property of the estate pursuant to Bankruptcy Rule 6007(b) of the Federal Rules of Bankruptcy Procedure, or a motion to withdraw the reference of a case under 28 U.S.C. § 157(d), a fee shall be collected in the amount of one-half the filing fee prescribed in 28 U.S.C. § 1914(a) for instituting a civil action other than a writ of habeas corpus. If a child support creditor or its representative is the movant, and if such movant files the form required by § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.
- (22) For docketing a cross appeal from a bankruptcy court determination, the fee shall be the same amount as the fee for docketing a case on appeal or review to the appellate court as required by Item 1 of the Courts of Appeals Miscellaneous Fee Schedule.
- (23) For usage of electronic access to court data: \$.60 per minute of usage via dial up service, and \$.07 per page for public users obtaining information through a federal judiciary Internet site [provided the court may, for good cause, exempt persons or

classes of persons from the fees, in order to avoid unreasonable burdens and to promote public access to such information]. All such fees collected shall be deposited to the Judiciary Information Technology Fund. These fees shall apply to the United States. (The Judicial Conference has approved an advisory note clarifying the judiciary's policy with respect to exemptions from the fees for usage of electronic access to court data. This advisory note is attached to this Fee Schedule as Appendix I. The Conference has also approved an advisory note defining information that may be provided to the public at no cost. This advisory note is attached at Appendix II.)

APPENDIX I

The Judicial Conference has prescribed fees for electronic access to court data, as set forth above in the Miscellaneous Fee Schedule. The schedule provides that the court may exempt persons or classes of persons from the fees, in order to avoid unreasonable burdens and to promote public access to such information. Exemptions should be granted as the exception, not the rule. The exemption language is intended to accommodate those users who might otherwise not have access to the information in this electronic form. It is not intended to provide a means by which a court would exempt all users.

Examples of persons and classes of persons who may be exempted from electronic public access fees include, but are not limited to: indigents; bankruptcy case trustees; not-for-profit organizations; and voluntary ADR neutrals.

APPENDIX II

The Judicial Conference has approved fees for access to court data obtained electronically from the public dockets of individual case records in the court. Courts may provide other local court information at no cost. Examples of information which can be provided at no cost include: local rules, court forms, news items, court calendars, opinions designated by the court for publication, and other information - such as court hours, court location, telephone listings - determined locally to benefit the public and the court.

Exhibit 17 - Bankruptcy Telephone Extensions

U. S. Bankruptcy Court -District of South Carolina

As of February 25, 2000

INTAKE DIVISION

Cindy Howlett..... 3029 - Process Manager

INTAKE..... 3045

AUTOCOP STATION... 3039

Sharon Greene..... 3038 - Intake Deputy

Dawn Roland..... 3043 - Intake Deputy

Betina Mobley..... 3044 - Intake Deputy

Chris Nichols..... 3040 - Intake Deputy

Mary Frances Williams... 3041 - Intake Deputy

CASE ADMINISTRATION DIVISION

Kendall Alexander..... 3034 - Process Manager

Lisa Baughman..... 3022 - Case Administrator

Connie Brooks..... 3015 - Case Administrator

Debi Green..... 3030 - Case Administrator

Vanna Daniel..... 3031 - Case Administrator

Karen Dyer..... 3021 - Case Administrator

Karen Douglass..... 3033 - Case Administrator

Kelley Morgan..... 3030 - Case Administrator

Sheree Phipps..... 3037 - Case Administrator

Kirk Porth..... 3017 - Case Administrator

Judy Smith..... 3023 - Case Administrator

Rhonda Smith..... 3016 - Case Administrator

Linda Hurst..... 3047 - Case Administrator

Novetta Henton..... 3032 - Support Specialist

COURTROOM SERVICES DIVISION

Courtroom Deputies

Peanut Crolley..... 3010 - Courtroom Deputy

Pam Miranda..... 3011 - Courtroom Deputy

Barbara Miller..... 3012 - Appeals/Relief Ctrm/ECRO

Electronic Court Recorder Operators (ECRO)

Agnes Floyd..... 3024 - ECRO

Leila Balliet..... 3019 - ECRO

Gail Cole..... 3036 - ECRO

Raye Jefferson..... 3035 - ECRO

SYSTEMS DIVISION

Chris Matras..... 3055 - Automation Manager

Chuck Meetze..... 3054 - Assistant Automation Manager

Stephen Todd..... 3057 - Automation Specialist

Lisa Huppertz..... 3065 - Automation Support Technician

Tony Lacey..... 3066 - Systems Administrator/Programmer

Frank Baker..... 3042 - Administrative Analyst-IRM

MANAGEMENT/ADMINISTRATIVE STAFF

Brenda K. Argoe..... 3004 - Clerk of Court

JaNell Hedgepath..... 3003 - Chief Deputy

Wanda Williams..... 3004 - Administrative Analyst

Regina Brown..... 3005 - Operations Coordinator/Analyst

Peppa Caskey..... 3014 - Process Analyst

Janet Hancock..... 3008 - Budget Analyst/Procurement

Karen Shepherd..... 3007 - Financial Administrator

Charlie Spangler..... 3006 - Personnel Specialist

UNITED STATES BANKRUPTCY COURT

TELEPHONE (803) 765-5436[illegible]

Exhibit 18 - Cross Reference Table SC LBR, LOF, and Clerk's Instruction

South Carolina Local Bankruptcy Rule (SCLBR)	Local Official Form (LOF)	Clerk's Instruction (CI)
SC LBR 1001-1: Scope, Citation, and Applicability of Local Rules		
SC LBR 1002-1: Filing of Petition	LOF 1002-1: Notice to Individual Consumer Debtor	
SC LBR 1006-1: Payment of Filing Fee, Administrative Fee, and Trustee Surcharge Fee in Installments	LOF 1006-1: Application to Pay Filing Fee, Administrative Fee, and Trustee Surcharge Fee in Installments	
SC LBR 1007-1: List of Creditors	LOF 1007-1(a): Request for Waiver LOF 1007-1(b): Certification Verifying Creditor Matrix	CI 1007-1(a): Submission of the List of Creditors on Computer Diskette CI 1007-1(b): Submission of the List of Creditors on Hard Copy in a Scannable Format
SC LBR 1007-2: Filing of Lists, Schedules and Statements	LOF 1007-2: Debtor's Claim for Property Exemption	CI 1007-2: Debtor's Claim for Property Exemption
SC LBR 1007-3: Filing of Statement of Intention		
SC LBR 1009-1: Amendments of Voluntary Petitions, Lists, Schedules and Statements		
SC LBR 1014-1: Case Venue and Proceeding Assignment and Transfers of Venue Within District		
SC LBR 1015-1: Amending Petitions to Add Spouse and Separating a Joint Petition		
SC LBR 1019-1: Disposition of Funds by Chapter 12 or 13 Trustees upon Conversion or Dismissal of Case		
SC LBR 2002-1: Notices to Creditors		CI 2002-1: Notice to Creditors
SC LBR 2002-2: Returned Notices		
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VII. Appendix

A. Disclaimer to Appendix

The following Appendix was prepared by the office of the United States Trustee and reflects the requirements of the United States Trustee in chapter 11 cases. It is not a substitute for any of the requirements of the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure or the Local Rules of this court. It does not contain all of the procedural requirements of the Code and various rules applicable in bankruptcy cases.

Most of the forms mentioned in these guidelines are available from the Office of the United States Trustee. Please see the forms list elsewhere in this manual for a listing of such forms.

B. United States Trustee's Requirements in Chapter 11 Cases

The guidelines and requirements can be found on the pages to follow

IN RE:)
) Chapter 11
) Case No.
)
)
)
)
Debtor.)

The above-named debtor recently filed a Chapter 11 case in this district. Your attention is directed to the attached Chapter 11 case administration guidelines of the United States Trustee.

Revised: December 1, 1996

UNITED STATES TRUSTEE
District of South Carolina
1201 Main Street, Suite 2440
Columbia, South Carolina 29201
(803) 806-3001

CHAPTER 11 REQUIREMENTS

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SUMMARY OF UNITED STATES TRUSTEE PROGRAM

The United States Trustee program is a division of the Department of Justice created to assist in the administration of Federal bankruptcy cases. The program is divided into twenty-one regions. The District of South Carolina is located within Region Four. Each Region is under the direction of a United States Trustee, appointed by and under the direction of the Attorney General of the United States. The United States Trustee typically employs a staff composed of an Assistant United States Trustee, attorneys, a bankruptcy analyst, and support staff in each state or district within the region. The District of South Carolina Office is located in the AT&T Building, 1201 Main Street, Suite 2440, Columbia, South Carolina 29201, (803)806-3001.

The duties and responsibilities of the United States Trustee are specifically stated in 28 U.S.C. § 586. The United States Trustee is a party in interest in every case within its jurisdiction and may raise, appear, and be heard on any issue in a case under the Bankruptcy Code.

Many of the Federal Rules of Bankruptcy Procedure specifically relate to the powers of the United States Trustee. Careful attention should be paid to these rules, as they concern required case filings, service of process, the appointment of trustees, and notices. Careful attention should also be paid to the Local Rules of the Bankruptcy Court of this district.

The comprehensive grant of authority to the United States Trustee to supervise and monitor all bankruptcy cases includes the ability to:

- A. Monitor applications for compensation and reimbursement of fees and expenses;
- B. Monitor plans and disclosure statements;
- C. Take such action as is necessary to ensure that reports, schedules, and fees required to be filed are properly and timely filed;
- D. Appoint and monitor creditors' committees;
- E. Notify the United States Attorney of bankruptcy crimes or fraud and assist in the prosecution of such actions;

- F. Monitor the progress of bankruptcy cases to prevent undue delay;
- G. Monitor applications to employ professionals;
- H. Review the investments of monies under 11 U.S.C. § 345;
- I. Appoint, monitor, and supervise trustees in bankruptcy cases;
- J. Convene and preside at the meeting of creditors;
- K. Require whatever information the United States Trustee may reasonably require in supervising the administration of a bankruptcy case;
- L. Call status conferences or convene meetings of creditors.

The United States Trustee program is funded by a combination of a portion of the filing fees in bankruptcy cases and the payment of fees called quarterly user fees which are paid by the Chapter 11 debtor. This quarterly fee is charged to a Chapter 11 debtor or trustee in a Chapter 11 case based upon the amount of disbursements made in each calendar quarter. Section 1930(a)(6) of Title 11 U.S.C. lists the various fees which may be charged to a debtor or trustee. The fees range from a minimum of \$250.00 to a maximum of \$10,000.00 per quarter. These fees are due on the last day of the calendar month following the calendar quarter for which the fees are owed. The debtor owes a quarterly fee for each calendar quarter until the case is closed, dismissed, or converted to another chapter.

Particular attention should be paid to Federal Rule of Bankruptcy Procedure 2002 and Local Rule 2002-1 which state what matters are required to be sent to or served upon the United States Trustee. Local Rule 2002-1 provides, in part, as follows:

(e) Notices/Copies for United States Trustee

(1) Filing of Copies of Documents for Transmittal to the United States Trustee by the Clerk.

The party submitting to the clerk of court for filing any document listed below shall submit a copy thereof for transmittal by the clerk to the United States Trustee:

- (a) petition;
- (b) list of creditors;
- (c) schedule of assets and liabilities;
- (d) schedule of current income and expenditures;
- (e) statement of financial affairs;
- (f) disclosure of attorney compensation;
- (g) statement of executory contracts and unexpired leases;
- (h) statement of intention;
- (i) list of 20 largest unsecured creditors in chapter 11 case;
- (j) list of equity security holders in chapter 11 case;
- (k) motion or notice proposing use, lease or sale of estate property;
- (l) plan and disclosure statement in chapter 11 case;
- (m) plan in chapter 12 case; and
- (n) monthly financial report in chapter 11 and chapter 12 case.

(2) Service of Documents upon the United States Trustee.

In addition to those documents, pleadings, and notices required to be timely furnished to or served upon the United States Trustee pursuant to the Federal Rules of Bankruptcy Procedure, a copy of the following documents shall be timely served on the United States Trustee by the debtor, the trustee or the moving party:

- (a) Chapter 11 Cases.** All pleadings, documents, applications, motions except: proofs of claim or interests, motions for relief from stay and related pleadings, adversary proceedings, and those documents listed in paragraph (e)(1) above. All pleadings relating to dischargeability of debts shall be served upon the United States Trustee....

GUIDELINE NO. 1--FILING OF SCHEDULES AND STATEMENTS

A. Copies - All filings required by 11 U.S.C. § 521 to be filed by a debtor with the Clerk of Court must include the original and five copies. This will enable the Clerk's Office to return a conformed copy to you and transmit a conformed copy to the United States Trustee, Internal Revenue Service and the Securities and Exchange Commission.

B. Timeliness of Filings - The debtor's schedules and statement of affairs must be filed within 15 days after the filing of a voluntary petition for relief. (Federal Rule of Bankruptcy Procedure 1007(c)). Local Rule 1007-2 provides that a case will be dismissed for failure to file these documents within 15 days. Local Rule 1007-2 also provides a procedure for requests for an extension of time to file the schedules. A copy of Local Rule 1007-2 is provided under Guideline 16.

The list of 20 largest unsecured creditors must provide the telephone numbers of those creditors along with the information required by Federal Rules of Bankruptcy Procedure 1007(d).

GUIDELINE NO. 2--DEBTOR'S BOOKS

The debtor shall close the debtor's existing financial books and records as of the close of business on the day of filing of the Chapter 11 petition, and open new books as of the opening of business on the next day. The debtor must keep a proper record of debtor's earnings, expenses, receipts, disbursements, and all obligations incurred and transactions made in the operation of the business and in the management, preservation and protection of the debtor's property.

GUIDELINE NO. 3--BANK ACCOUNTS AND DEPOSIT REQUIREMENTS

It is imperative that a Chapter 11 debtor immediately close its old bank accounts and establish a new set of accounts. The date of filing of the case is an important date, and, if new accounts are not established, the line separating pre-petition and post-petition transactions and obligations may be blurred. In addition, the establishment of separate bank accounts for specific purposes during the Chapter 11 assists the debtor in keeping monies separate and available for their intended designee.

All Chapter 11 debtors must immediately close out all existing bank accounts and establish three new bank accounts for the debtor-in-possession: (1) a general expense account; (2) a

payroll account; and (3) a taxes/special escrow account. The checks printed for these accounts should indicate "Debtor-in-Possession" clearly on the face so that suppliers and other creditors will know that they are dealing with a Chapter 11 debtor and that they are entitled to an administrative claim for any unpaid credit extended to the debtor. Checks are to be pre-numbered by the bank and should include the type of account on the face of each check (i.e. general, payroll, or tax).

The attached Bank Account Report must be filed with the United States Trustee before the original date set for the meeting of creditors. Failure to provide this form to the United States Trustee in a timely manner may result in dismissal of the case or conversion of the case to chapter 7. See Local Rule 2081-1, a copy of which is provided under Guideline 16.

The establishment of more or fewer accounts than the three required is the exception and not the rule. The debtor should not establish accounts at more than two financial institutions. Any request for variation from the standard rule must be requested in writing from the United States Trustee's Office. Permission will be granted only in writing by the United States Trustee.

Problems associated with the establishment of bank accounts should be addressed to the United States Trustee.

Unauthorized Depositories

The United States Trustee maintains a list of financial institutions which are unable to comply with the United States Trustee's requirements and § 345 of the Bankruptcy Code concerning collateralization of bankruptcy estate funds. A listing of all such institutions for the District of South Carolina, Region Four, is attached as Exhibit A. The debtor-in-possession is prohibited from maintaining accounts or opening new accounts with these institutions.

The United States Trustee also maintains a list of financial institutions which have entered into an agreement with this office pledging compliance with the aforementioned requirements. This listing is attached as Exhibit B. The debtor-in-possession is encouraged to establish accounts with these institutions, if feasible.

If the debtor-in-possession prefers to use a financial institution which is not included in Exhibit A or B, this office will attempt to establish an agreement with that institution. Should the institution decline, the debtor-in-possession would be required to remove all funds and deposit them with another

financial institution.

IN RE:

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) Chapter 11

) Case No.

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Debtor.)

GUIDELINE NO. 4--INSURANCE

An essential element for adequate protection of a secured creditor's interest in collateral and an unsecured creditor's interest in the equity of any asset is the presence of insurance coverage. Adequate insurance coverage is an essential requirement of any Chapter 11 reorganization/liquidation.

Before the original date set for the meeting of creditors, the debtor must file the original of all insurance reports with the United States Trustee. All reports must be submitted using the form attached. Failure to provide this form to the United States Trustee in a timely manner may result in dismissal of the case or conversion of the case to chapter 7. See Local Rule 2081-1, a copy of which is provided under Guideline 16.

Insurance coverage must be kept current throughout the Chapter 11 case. Additional reports of insurance coverage are required each time a renewal, change, or lapse of coverage occurs.

The debtor should instruct each insurance company to place the words "Debtor in Possession" following the debtor's name on each policy.

Proof of each of the following types of insurance must be provided to the United States Trustee if applicable to the operation of the debtor.

- General Comprehensive and Liability Insurance
- Fire and Theft Insurance
- Worker's Compensation Insurance
- Product Liability Insurance

The debtor is responsible for maintaining current insurance information filings with the United States Trustee's Office. Failure to maintain current insurance information with the United States Trustee may result in dismissal of the case or conversion of the case to chapter 7. See Local Rule 2081-1, a copy of which is provided under Guideline 16.

IN RE:

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Debtor.)

A report must be filed for each insurance policy maintained by the debtor or trustee.

NAME, ADDRESS AND TELEPHONE OF LOCAL AGENT:

(name, address, and telephone
number of debtor or trustee)

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GUIDELINE NO. 5 -- MONTHLY OPERATING REPORTS

MONTHLY REPORT INSTRUCTIONS

The United States Trustee is responsible for supervising and monitoring the progress of all Chapter 11 cases. 28 U.S.C. § 586. In South Carolina, pursuant to 11 U.S.C. § 1106(a), Federal Rule of Bankruptcy Procedure 2015 and Local Rule 2015-1, regular reports of operations must be timely filed in accordance with the following instructions.

All debtors-in-possession or trustees must file with the Clerk not later than the 20th day of each month a written financial report for the entire preceding calendar month. This report must conform to the forms provided in these guidelines. The original and one copy of the monthly reports must be filed with the court at the following address: **U. S. Bankruptcy Court, P. O. Box 1448, Columbia, South Carolina 29202**. Failure to file these reports with the court in a timely manner may result in dismissal of the case or conversion of the case to chapter 7. See Local Rule 2081-1, a copy of which is provided under Guideline 16.

If the debtor files a bankruptcy petition more than 10 days prior to the end of any calendar month, a monthly report must be filed for that portion of the calendar month no later than the 20th day of the following month. A debtor who files 10 days or less prior to the end of a calendar month must include these days in the report for the following month. A debtor should not file a monthly report which covers a period exceeding 41 days.

The contents of a monthly report depend upon the debtor's business status and accounting basis, cash or accrual, and should be comprised of the appropriate documents from these guidelines:

Business Debtor, Accrual Basis Accounting

Pages 19 - 21	Financial Background Information
Pages 22 - 23	Income Statement
Page 24	Cash Reconciliation Report
(Operating	Account)
Page 25	Cash Reconciliation Report (Payroll
and Tax	Account)
Page 26	Balance Sheet
Page 27	Cash Disbursements Summary Report
Page 28	Schedule AR (Accounts Receivable)
Page 29	Schedule AP (Accounts Payable)
Page 21A	IRS Form 6123 Verification of Federal Tax Deposit

Also, Copies of Bank Statements(Not included in these guidelines)

Business Debtor, Cash Basis Accounting

Pages 19 - 21 Financial Background Information
Pages 30 - 32 Income Statement
Page 27 Cash Disbursements Summary Report
Page 21A IRS Form 6123 Verification of Federal Tax Deposit
Also, Copies of Bank Statements(Not included in these guidelines)

Non-business Debtor, Cash Basis Accounting

Pages 19 - 21 Financial Background Information
Page 33 Income Statement
Also, Copies of Bank Statements(Not included in these guidelines)

Any variance from these forms must be approved by the Office of the United States Trustee in writing. The reports must be filed every month the case remains in Chapter 11, until a Report of Substantial Consummation and a Final Report is filed with the court, even if the debtor is a non-business individual.

The Financial Background Information sheet must be completed each time the report is submitted. Additional reports may be required in supervising the administration of the estate.

The debtor must provide a Schedule AP of all post-petition accounts payable over 30 days old. The theory of a Chapter 11 proceeding is that the debtor remains in possession of the business and pays post-petition obligations on a current basis while working toward constructing a plan of reorganization under which provision will be made for pre-petition obligations. A second generation of debt must not be allowed to build up during the Chapter 11 proceeding.

Trust fund withholdings are those monies which the employer (debtor) does not own, but, as a fiduciary must withhold, collect and deposit for the benefit of the Internal Revenue Service or the South Carolina Tax Commission. The trust funds include employees' federal income taxes, employees' portion of F.I.C.A., sales taxes, etc. It is not permissible to take any amounts from those funds to be used as a source of ready cash. IRS Form 6123

must be completed to monitor the timely deposit of trust fund withholdings. Evidence of payment or deposit of these taxes must be provided with each monthly operating report. Such evidence should be a receipted copy of IRS Form 6123 (enclosed) or a similar receipt from the South Carolina Tax Commission. The evidence of deposit must show gross salaries, deductions, net pay, amount of deposit, and pay period.

CHAPTER 11 GUIDELINES - INSTRUCTIONS TO MONTHLY OPERATING REPORTS

I. GENERAL REQUIREMENTS

A. The debtor-in-possession (DIP or debtor) is required to comply in all respects with the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, and Local Rules. Failure to comply may result in dismissal of the case or conversion of the case to chapter 7. See Local Rule 2081-1, a copy of which is provided under Guideline 16.

B. Bankruptcy law allows you to operate your business in its ordinary course. Some business actions, however, require specific court authorization, including the following:

--Use "cash collateral" (cash, receivables, proceeds subject to liens)...(Bankruptcy Code § 363; Federal Rule of Bankruptcy Procedure 4001);

--Employ or compensate post-petition an attorney, accountant, or any professional. (See Code § 327 and § 330 and Federal Rule of Bankruptcy Procedure 2014);

--Pay pre-petition wages, except you may pay without court order those wages (not to exceed \$2,000 per employee) owing for the pay period just prior to the bankruptcy;

--Pay any other unsecured pre-petition debt.

--Borrowing money.

C. It is the debtor's responsibility to notify the United States Trustee and Bankruptcy Court in writing of any change of address or telephone number within ten (10) days after the change.

D. Within ten (10) days of receipt of these requirements, the debtor-in-possession must provide the Office of the United States Trustee a written certification of compliance with the Initial Reporting Requirements as set forth below. See page 3. This report is filed only once.

ALL QUESTIONS ON THE DEBTOR-IN-POSSESSION REPORT MUST BE ANSWERED

II. INITIAL REPORTING REQUIREMENTS

A. Books and Records

The books and records of the debtor must be closed out as of the date of filing of the petition and a new set of books and records should be opened thereafter for the debtor-in-possession.

B. Bank Accounts

The debtor must close out old accounts, open new "debtor-in-possession" accounts, and file its Deposit Report with the United States Trustee before the original date set for the meeting of creditors (see Guideline No. 3 of the Chapter 11 Guidelines for details). All funds required to be escrowed under state or federal law shall be deposited in the tax account and may be disbursed only for the purposes for which they are set aside. If the aggregate bank account funds in any one depository exceed \$100,000, the United States Trustee must be notified immediately.

C. Insurance

The debtor must maintain appropriate property and liability insurance. The Insurance Report should be completed and filed with the United States Trustee before the original date set for the meeting of creditors (see Guideline No. 4 of the Chapter 11 Guidelines for details). In the event of termination or lapse of insurance, the debtor must report the termination to the United States Trustee and promptly obtain replacement coverage. The debtor is responsible for maintaining current insurance information on file with the United States Trustee.

III. OTHER ADMINISTRATIVE REQUIREMENTS

A. Monthly Reports

Monthly financial reports are required to be filed by the 20th of every month for the preceding calendar month (see Guideline No. 5 to select the proper form or forms to use). (Code § 1106(a), Federal Rule of Bankruptcy Procedure 2015, and Local Rule 2015-1).

B. Quarterly Fees

For every calendar quarter, or for part of a quarter that the case remains in Chapter 11 prior to closing, dismissal, or conversion, a fee based on a debtor's total disbursements is due to the United States Trustee. The fee is due within 30 days after the end of each calendar quarter. {28 U.S.C. § 1930(a)(6)}

C. Post-petition Tax Obligation

Post-petition federal payroll taxes must be paid timely, using IRS Form 6123. State and local taxes must be paid timely. All required tax returns must be filed timely.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

In Re: _____) Chapter 11
)
) Case Number _____
)

Debtor(s) _____

**DEBTOR-IN-POSSESSION REPORT
(ONE TIME FILING)**

The debtor-in-possession (DIP or debtor) captioned above acknowledges receipt of the Chapter 11 Debtor Instructions and Requirements and submits the following report.

A. Books and Records

The books and records of the debtor have been closed out as of the date of filing of the petition herein. A new set of books and records has been opened for the debtor-in-possession.

B. Bank Accounts

All pre-petition bank accounts have been closed. New accounts have been opened for the debtor-in-possession as follows:

Operating Account ____ Tax Account ____
Payroll Account ____

The accounts are with the following depository: _____
_____ and are insured
by FDIC ____ Other: _____.

C. Proof of Insurance

The debtor has in force or has ordered the following types of insurance which comprise all of the types of insurance normally required for a business of this nature:

Auto and truck _____ Liability _____
_ Fire _____ Workers Comp. _____

Copies of the respective certificates of insurance are attached. State any exceptions:

D. Employee Information

Current number of employees _____

Gross monthly payroll:

Officers, directors and principals _____

Other employees _____

All post-petition payroll obligations including payroll taxes are
current. Exceptions:

Date: _____ Signed: _____

Title: _____

ALL QUESTIONS ON THE DEBTOR-IN-POSSESSION REPORT MUST BE ANSWERED

Monthly Operating Report Definitions

The Income Statement

(A) **Total Sales/Income** - This should be income from operations only and should not include items such as sales of equipment or property (unless the debtor is in the business of selling equipment or property).

(B) **Total Cost of Sales** - Any business which produces, buys or sells goods to generate income must complete this section of the Income Statement. Cost of sales refers to the costs a business incurs in obtaining or producing items for sale. Depending on the nature of your business, it may require placing values on raw materials, work in process, and finished goods such as in a manufacturing facility. For merchants, it may consist of only the cost of merchandise held for sale. You must place beginning and ending values on your inventories to obtain this amount. To arrive at the cost of goods available for sale during the period, you should take the cost of inventory at the beginning of the period and add the cost of goods manufactured, purchased or processed during the period (purchase price plus freight costs). From this figure, subtract the value of the inventory at the end of the period to arrive at the cost of sales.

(C) **Gross Profit** - Gross profit is the result of deducting cost of goods sold from total sales/income.

(D) **Total Operating Expenses** - Various types of operating expenses will be incurred in your business. The list of expenses is not all inclusive, therefore extra space is provided to report all operating expenses incurred in your line of business.

The Taxes (Payroll) line item refers to the employer's share of FICA and Federal and State unemployment taxes required, but does not include amounts the employer is required to withhold for the employee's share. The employee share of payroll taxes should be included in the Salaries (Gross) figure. The Salaries items are **Gross Salary**.

(E) **Profit/Loss from Operations** - This is the Total Operating Expenses deducted from the Gross Profit.

(F) **Total Other Income/(Expense) & Extraordinary Items** - Other Income (Expenses) are items such as interest income and expenses. Extraordinary Items are items such as the sale of a piece of property at a profit (Extraordinary Income) or at a loss (Extraordinary Loss).

(G) **Income Before Taxes** - The result of adding or deducting the Total Other Income/Expense & Extraordinary Items from the Profit/Loss from Operations.

(H) **Income Taxes** - Enter here the Federal and State Income Tax Expense (or Credit) as a result of this period's Operations.

(I) **Net Income (Loss)** - The result of deducting (or adding) the income tax from the Income Before Taxes.

In Re:) Chapter 11
)
) Case Number _____
)
Debtor(s)

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8. **POST-PETITION ACCOUNTS PAYABLE:**

0-30 Days: \$_____ 31-60 Days: \$_____
Over 60 Days: \$_____

If there are any post-petition Accounts Payable over 30 days, provide Schedule AP giving a listing of such accounts and explain the delinquencies.

9. **TAXES.** Are all taxes being paid to the proper taxing authorities when due? Yes ____ No _____. On the attached IRS Form 6123 report all tax deposits made with any financial institution for federal employment taxes. Be sure the form is complete and signed by an authorized employee of the receiving institution or taxing authority. Attach to this report a completed Form 6123 for each deposit made during the reporting period. Also attach copies of the monthly sales tax report, payroll tax report and unemployment tax report with evidence of payment of both federal and state taxes.

10. **ESCROW ACCOUNTS.** Are you utilizing your tax account only for deposits and payment of payroll and sales taxes? Yes ____ No _____. If no, explain: _____

11. Are all **BOOKS AND RECORDS** of the debtor(s) being maintained monthly and are all current? Yes ____ No ____ Explain: _____

12. **INSURANCE EXPIRATION STATEMENT.** Policy expiration dates are:

Auto & Truck _____ Liability _____
Fire _____ Workers Comp. _____

13. **ACTIONS OF DEBTOR.** During the last month, did the debtor:

(A) Fail to defend or not oppose any action seeking to dispossess the debtor from control or custody of any asset of the estate? Yes ____ No ____
Explain: _____

(B) Maintain such stock, inventory, raw materials, insurance, employees and other resources as are necessary to preserve and maintain the going-concern value of the assets

of the debtor? Yes ____ No ____ Explain:

14. **TRANSFER OR SALE OF PROPERTY.** Did the debtor or any person with control over any of the debtor's assets transfer, convey or abandon any of the debtor's assets to another party during the period of this report other than as set forth herein (including sales by creditors)?

Yes ____ No ____ Explain: _____

15. **PAYMENTS TO SECURED CREDITORS** during reporting period:
(Attach additional sheets, if necessary.)

Creditor	Frequency of Payments per Contract (mo, qtr)	Amount of Each Payment	Next Payment Due	Post-Petition Pmts. not Made	
				No.	Amt.

16. **PAYMENTS TO PROFESSIONALS** (Attorneys, Accountants, Real Estate Agents, Auctioneers, Appraisers, etc., during reporting period:

(Attach additional sheets, if necessary.)

Professional	Service	Amount

17. **QUARTERLY U.S. TRUSTEE FEES** paid during reporting period:
\$ _____

18. **VERIFICATION:** I declare under penalty of perjury that the information contained in this monthly operating report (including attached schedules) is true and correct to the best of my knowledge, information and belief.

Dated: _____

DEBTOR-IN-POSSESSION

Name/Title: _____ By: _____
____Address: _____

Phone: _____

**ALL MONTHLY REPORTS MUST BE FILED AT THE
BANKRUPTCY COURT (P.O. BOX 1448, COLUMBIA, SC 29202)
*ORIGINAL PLUS ONE COPY***

In Re: _____) Chapter 11
)
)
) Case Number _____
Debtor(s))

(Business Debtor, Accrual Basis)
Calendar Month _____ to _____
(All figures refer to post-petition transactions)

Interest (Mortgage, Loans, etc.)	_____	_____
Leases (other than Rent)	_____	
<hr/>		
Outside Services & Contractors	_____	
<hr/>		
Professional Fees (Attorney, Accountant)		
Rent and leases	_____	_____
Repairs & Maintenance	_____	_____
Supplies	_____	_____
Taxes (Real Property)	_____	_____
Taxes (Other)	_____	_____
Telephone	_____	_____
Travel	_____	_____
Utilities	_____	_____
<hr/>		
U.S. Trustee Quarterly Fee		
	This Month	Year to Date
Other Operating Expenses		
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
(D) Total Operating Expenses (D)	_____	_____
(E) Profit/Loss from operations (E=C-D)		
	_____	_____
Other Income (Expenses)	_____	_____
Interest Income	_____	_____
Interest Exp		(_____)
(_____)		
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
Extraordinary Items- In (Out)		
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
(F) Total Other Income/Expense & Extraordinary Items (F)	_____	

(G) Income Before Taxes (G = E+F) _____

(H) Income Tax Expense (H) _____

(I) Net Income (Loss)(I = G - H) _____

NOTE: Accrual basis reporters must attach **Cash Reconciliation Reports** or a standard Statement of Sources and Uses of Cash to this Report.

CASH RECONCILIATION REPORT
(Business Debtor, Accrual Basis)
Calendar Month Ending _____

(All figures refer to post-petition transactions)

**Operating
Account**

(A) Beginning Cash Balance (A) _____

(B) Net Income, (line (I), Page 23) (B) _____

Add Expenses Not Requiring Cash:

Depreciation _____

(C) Sub-Total (C) _____

(D) Cash from Operations (D = B + C) _____

Other Sources (Uses) of Cash:

Sources (Uses)

Decrease (Incr) - Accounts Receivable _____

Decrease (Incr) - Inventory _____

Decrease (Incr) - Equipment _____

Decrease (Incr) - Furniture & Fixtures _____

Decrease (Incr) - _____

Decrease (Incr) - _____

Increase (Decr) - Accounts Payable _____

Increase (Decr) - Accrued Interest _____

Increase (Decr) - Accrued P/R Taxes _____

Increase (Decr) - Accrued Prof. Fees _____

Increase (Decr) - Accrued Rent _____

Increase (Decr) - Accrued Salaries _____

Increase (Decr) - Accrued Sales Taxes _____

Increase (Decr) - Notes Payable -Banks _____

Increase (Decr) - Notes Payable -Other _____

Increase (Decr) - _____

Increase (Decr) - _____

(Less) Unrecorded bank service charges _____

(E) Total Other Sources (Uses) of Cash (E) _____

(F) Ending Cash Balance (F = A+D+E) _____
 (G) Balance per Bank Statement (G) _____
 (H) Less Outstanding Checks (H) _____
 (I) Add Deposits in Transit (I) _____

(J) Reconciled Bank Balance {J=(G-H)+I} _____

Ending Cash Balance (F) and Reconciled Bank Balance (J) should equal.

**A COPY OF THE BANK STATEMENT(S) SHOULD BE ATTACHED TO THIS FORM
 CASH RECONCILIATION REPORT**

Payroll and Tax Accounts
 (Business Debtor, Accrual Basis
 Calendar Month Ending _____
 (All figures refer to post-petition transactions)

	Payroll Account	Tax Account
(A) Beginning Cash Balance (A)	_____	_____
Cash Receipts:		
Transfers from Operating Account	_____	_____
Transfers from Payroll Account	_____	_____
Other - _____		_____
_____		_____
_____		_____
(B) Total Cash Receipts (B)		_____

(C) Cash Available (C = A + B) _____

Cash Disbursements:

Gross Payroll for this period \$ _____

Employee Benefits paid _____
 Net Payroll Paid _____
 Transfers to Tax Account _____

Taxes deposited or paid during period

Employees' share of FICA Tax	_____	_____
Employer's share of FICA Tax	_____	_____
Employees' Federal Income Tax	_____	_____
Employees' State Income Tax		_____

Unemployment Tax	_____	_____
Unrecorded Bank Service Charges	_____	_____

Other: _____

(D) Total Disbursements (D) _____

(E) Ending Cash Balance (E = C-D) _____

(F) Balance per Bank Statement (F) _____

(G) Less Outstanding Checks (G) _____

(H) Add Deposits in Transit (H) _____

(I) Reconciled Bank Balance {I = (F-G)+H} _____

Ending Cash Balance (E) and Reconciled Bank Balance (I) should equal.

A COPY OF THE BANK STATEMENT(S) SHOULD BE ATTACHED TO THIS FORM

BALANCE SHEET

As of _____

Current Assets

Cash _____ \$ _____

Pre-Petition Accounts Receivable _____

Post-Petition Accounts Receivable _____

Receivable from Officers,
Employees, Affiliates _____

Notes Receivable _____

Inventory _____

Other Current Assets: _____

Total Current Assets _____

Fixed Assets

Land _____

Buildings _____

Equipment, Furniture & Fixtures _____

less Accumulated Depreciation (_____)

Total Fixed Assets _____

Other Assets

Total Other Assets _____

Total Assets _____

Post-Petition Liabilities

Accounts Payable _____

Notes Payable _____

Rents and Leases Payable _____

Taxes Payable _____

Accrued Interest _____

Total-Post Petition Liabilities _____

Pre-Petition Liabilities

Priority Claims _____

Secured Debts _____

Unsecured Debt _____

Total Pre-Petition Liabilities _____

Owners Equity (Deficit)

Capital Stock or Owners Investment _____

Paid In Capital Surplus _____

Retained Earnings (Deficit) _____

Pre -Petition _____

Post-Petition _____

Total Owners Equity _____

Total Liabilities and Owner's Equity _____

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

In Re:)
) Chapter 11
) Case Number: _____
)
 _____ Debtor(s))

Cash Disbursements Summary Report
Calendar Month Ending _____

Total Disbursements from Operating Account
(See Note 1) _____

Total Disbursements from Payroll Account
(See Note 2) _____

Total Disbursements from Tax Escrow Account
(See Note 3) _____

Total Disbursements from any other Account
(See Note 4) _____

Grand Total Disbursements from all Accounts

Note 1 --Include in this amount all checks written, wire transfers made from, or any other withdrawal from the general operating account. Exclude only transfers to the debtor-in-possession payroll account, the debtor in possession tax escrow account or other debtor in possession account where the disbursements will be listed on this report.

Note 2 --Include in this amount all checks written, wire transfers made from, or any other withdrawal from the payroll account. Exclude only transfers to the debtor-in-possession operating account, the debtor in possession tax escrow account or other debtor-in-possession account where the disbursements will be listed on this report.

Note 3 --Include in this amount all checks written, wire transfers made from, or any other withdrawal from the tax escrow account. Exclude only transfers to the debtor-in-possession operating account, the debtor in possession payroll account or other debtor in possession account where the disbursements will be listed on this report.

Note 4 -- Include in this amount any other disbursements made by the debtor including (but not limited to) cash paid from a petty cash fund or cash register, amounts paid from any other debtor in possession account, and amounts paid from the accounts of others on the debtors behalf (for example, disbursements made from a law

firm's escrow account as a result of a sale of property.)

In Re: _____ Case Number _____

ACCOUNTS RECEIVABLE

As of _____

Creditor	Total	Date	Past Due	Past Due
Days) (Over 60 Days)			Due	Incurred (31-60

TOTALS THIS PAGE	_____	_____	_____
------------------	-------	-------	-------

TOTALS ALL	_____	_____	_____
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In Re: _____ Case Number _____

ACCOUNTS PAYABLE

As of _____

Creditor	Total Due	Date Incurred	Past Due (31-60 Days)	Past Due (Over 60 Days)
----------	--------------	------------------	--------------------------	-------------------------------

TOTALS THIS
PAGE

TOTALS ALL
PAGES

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

In Re:) Chapter 11
)
) Case Number _____
)

Debtor(s))

MONTHLY OPERATING REPORT
INCOME STATEMENT

(Business Debtor, Cash Basis)
Calendar Month _____ to _____

(All figures refer to post-petition transactions)

	This Month	Year to Date
(A) Total Sales/Income (A)	_____	_____
Cost of Sales		
Purchases of Inventory	_____	_____
Purchased Services	_____	_____
_____	_____	_____
_____	_____	_____
(B) Total Cost of Sales (B)	_____	_____
(C) Gross Profit (C = A - B)	_____	_____

Operating Expenses

Officer Salaries (Gross)	_____	_____
Other Employee Salaries (Gross)	_____	_____
Taxes (Payroll: Employer's Share)	_____	_____
Employee Benefits (Insurance, Pension Plan, etc. Employer's Share)	_____	_____
Advertising	_____	_____
Automobile Expenses	_____	_____
Entertainment	_____	_____
Insurance (Real Estate)	_____	_____
Insurance (Other)	_____	_____
Interest	_____	_____
Leases (other than Rent)	_____	_____
Outside Services & Contractors	_____	_____
Professional Fees (Attorney, Accountant)	_____	_____
Rent	_____	_____

Repairs & Maintenance	_____	_____
Supplies	_____	_____
Taxes (Real Property)	_____	_____
Taxes (Other)	_____	_____
Telephone	_____	_____
Travel	_____	_____
Utilities	_____	_____
U.S. Trustee Quarterly Fee	_____	_____

	This Month	Year to Date
--	-------------------	---------------------

Other Operating Expenses

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(D) Total Operating Expenses (D) _____

(E) Profit/Loss from operations (E=C-D)

Other Income (Expenses)

Interest	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(F) Total Other Income/Expense (F)

(G) Income Before Taxes (G=E+F) _____

(H) Income Tax Expense (H) _____

(I) Net Income (Loss) (I = G-H) _____

Extraordinary Items

Loans Received	_____	_____
Note Principal (Paid)	_____	_____
Capital (Purchases)	_____	_____
(Less) Unrecorded Bank Svc. Chg.		_____

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(J) Total Extraordinary Items (J) _____

(K) Cash forward from prior period (K)

(L) Ending Cash Balance ($L = I+J+K$)

(M) Balance per Bank Statement (M)

(N) Less Outstanding Checks (N)

(O) Add Deposits in Transit (O)

(P) Reconciled Bank Balance $\{P=(M-N)+O\}$

Ending Cash Balance (L) and Reconciled Bank Balance (P) should equal.

A COPY OF THE BANK STATEMENT(S) SHOULD BE ATTACHED TO THIS FORM

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

In Re:) Chapter 11
)
) Case Number _____
Debtor(s))

MONTHLY OPERATING REPORT
INCOME STATEMENT

(Non-Business Debtor, Cash Basis)
Calendar Month _____ to _____

(All figures refer to post-petition transactions)

This Month

Income

Salary, Wages, etc. _____
Interest, dividends, investments _____

Business income(Rents, Royalties,
Sale of Assets, etc.) _____

Other: _____

(A) Total Income (A) _____

Expenses

Automobile
Car payment _____

Insurance _____
Other _____

Housing
Mortgage payment _____

Insurance _____
Real estate tax _____

Rent _____
Utilities _____

Insurance (Other) _____

Interest _____

Medical _____

Personal Living Expenses _____

Professional Fees (Attorney, Acct., etc) _____

Taxes (Other) _____

(B) Total Expenses (B) _____

(C) Cash Flow (C = A-B) _____

(D) Cash forward from prior period (D) _____

(E) Ending Cash Balance (E = D+C) _____

(F) Balance per Bank Statement(s)(F) _____

(G) Less Outstanding Checks (G) _____

(H) Add Deposits in Transit (H) _____

(I) Reconciled Bank Balance {I=(F-G)+H} _____

Ending Cash Balance (E) and Reconciled Bank Balance (I) should equal.

A COPY OF THE BANK STATEMENT(S) SHOULD BE ATTACHED TO THIS FORM
GUIDELINE NO 6--EMPLOYMENT AND COMPENSATION

Federal Rules of Bankruptcy Procedure 2014, 2016, 6005, and 11 U.S.C. §§ 327, 328, 329, 330, and 1107 address the employment and compensation of professionals by the debtor or trustee.

A. Application and Orders for Employment of Professional Persons

The original and three copies of an application and order for the employment of a professional should be sent directly to the United States Trustee. All such applications must comply with Federal Rule of Bankruptcy Procedure 2014 by showing:

1. Specific facts necessitating the employment;
2. Name and proposed compensation for the professional;
3. Affidavit of disinterestedness by the person to be employed.

The form of the order should comply essentially with the forms attached. Note that there is different language for an order employing an auctioneer or appraiser. Federal Rule of Bankruptcy Procedure 6005 requires the compensation of an auctioneer or appraiser to be fixed in the order. The compensation of a sales agent, realtor, or broker should also be initially fixed in the order of employment in like manner, although Federal Rule of Bankruptcy Procedure 6005 does not address these professionals. The orders on other professionals should not fix the rate of compensation.

All orders for employment of professionals must contain a signature blank for consent of the Assistant United States Trustee which reads:

I CONSENT:

Joseph F. Buzhardt, III
Assistant U. S. Trustee

By: _____

Applications for employment of professionals will generally be considered by judges ex parte.

All professionals must be appointed according to the above-described procedure. Failure to comply could result in denial of compensation.

B. Professional Fees and Expenses

Applications for compensation of professionals must be filed with the Clerk and served upon the United States Trustee.

All applications for fees and the reimbursement of expenses should comply with Federal Rule of Bankruptcy Procedure Rule 2016, the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses (copy attached as Exhibit C) and the following:

Travel Time. All travel time should be separately disclosed and the means of travel should be indicated. Travel time should include preparations and arrangements for travel and actual travel "door to door." If the professional works on the bankruptcy case while traveling, productive work time may also be indicated with an explanation of what was accomplished for consideration of full payment. "Dead" travel time may be billed at one-half the applicant's hourly rate.

The requirements of these guidelines are applicable to applications submitted for the professional by another party, to requests for fees and expenses made by, or included in, any proof of claim, including those requests made under 11 U.S.C. § 503 or § 506(b), and to those applications submitted by professionals employed by trustees, examiners and consultants directly.

IN RE:

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) Chapter 11

) Case No.

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Debtor.)

Upon the annexed application of _____, the debtor (or trustee) herein, for the authority to employ (name of professional) as (type of professional), it is, ORDERED, ADJUDGED AND DECREED that the debtor (or trustee) be, and hereby is, authorized to employ _____ for the purpose described in the annexed application. The compensation shall be set by the court according to 11 U.S.C. § 330(a) and, therefore, may be different from the terms of compensation discussed by the debtor (or trustee) and the (type of professional).

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:)
)
) Chapter 11
) Case No.
)
)
 _____ Debtor.)

ORDER AUTHORIZING DEBTOR (OR TRUSTEE) TO EMPLOY
AUCTIONEER (OR APPRAISER)

Upon the annexed application of _____, the
debtor (or trustee) herein, for the authority to employ
(name of professional) as (type of professional), it is,

ORDERED, ADJUDGED AND DECREED that the debtor (or trustee) be,
and hereby is, authorized to employ _____ for the
purpose described in the annexed application. The rate or amount
of compensation of the auctioneer (or appraiser) is initially
fixed at: (state rate, including a specific monetary cap on
expenses, if applicable). Bankruptcy Rule 6005. The compensation
of the auctioneer (appraiser) is subject to review by the court
as provided for in 11 U.S.C. § 330(a).

Judge
United States Bankruptcy Court

Date: _____

I CONSENT:

Joseph F. Buzhardt, III
Assistant United States Trustee

By: _____

GUIDELINE NO. 7--CREDITORS' COMMITTEES

Section 1102 of Title 11 U.S.C. requires the United States Trustee to appoint a creditors' committee composed of unsecured creditors willing to serve. The committee shall be appointed from the list of the 20 largest unsecured creditors submitted with the petition.

Shortly after the filing of the petition, the United States Trustee invites between 10 and twenty of the debtor's largest unsecured creditors to serve on the unsecured creditors' committee. Potential committee members receive information explaining the duties and responsibilities of the creditors' committee. If at least three creditors respond affirmatively, the United States Trustee appoints an unsecured creditors' committee. The report of selection of the creditors' committee is filed with the Court with copies sent to the debtor, counsel for the debtor, and the members chosen to serve on the committee. If less than three unsecured creditors are willing to serve on a committee, no committee is appointed by the United States Trustee. In that instance, a report of non-appointment is filed with the court. Section 1103(d) requires the debtor to meet with the creditors' committee as soon as practicable after the appointment of the committee to transact such business as may be necessary and proper.

Section 1102 authorizes the United States Trustee to appoint a committee of other creditors of a common type or class if such appointment is necessary to assure their adequate representation. For example, the United States Trustee may appoint under certain circumstances a committee of timeshare holders, limited partners, or bondholders.

GUIDELINE NO. 8 -- QUARTERLY FEES - UNITED STATES TRUSTEE PROGRAM

Title 11 U.S.C. § 1930(a)(6) requires that in addition to the filing fee, a quarterly fee must be paid to the United States Trustee for each quarter (including any fraction of a quarter the debtor is under Chapter 11 protection) until the case is closed, dismissed, or converted to another chapter. The quarterly fee is based on the amount of disbursements during the quarter with a minimum fee of \$250.00 and a maximum fee of \$10,000.00 per quarter. The complete current quarterly fee schedule is attached as Exhibit D.

Quarterly fee bills are mailed to the debtor by the United States Trustee at the end of each quarter with instructions on how to determine the fee and make proper payment of the fee. The fee is due on the last day of the calendar month following the calendar quarter for which the fee is owed. Any debtor not receiving a statement for the fee or having questions about the fee should contact the United States Trustee's Office. Failure

to timely pay quarterly fees may result in dismissal of the case or conversion of the case to chapter 7. See Local Rule 2081-1, a copy of which is provided under Guideline 16.

GUIDELINE NO. 9--PAYMENTS BY DEBTOR-IN-POSSESSION

Under 11 U.S.C. §§ 1107 and 1108, a debtor in possession is authorized to continue to operate its business in its normal manner. There are certain kinds of debts and expenses that the debtor is required to pay and which do not necessitate an order from the court. Leave from the court, however, must be sought prior to using funds upon which any perfected security interest may be attached. Unless otherwise ordered by the court or prohibited by the Bankruptcy Code, the debtor-in-possession is authorized to pay from time-to-time, out of funds available for such purposes:

- (a) Taxes or other governmental assessments incurred since the filing of the petition under Chapter 11 in the operation of the business and in preservation and maintenance of the property and assets of the debtor.
- (b) Proper expenses and obligations incurred in operating the business and preserving and maintaining the property and assets of the estate, including reasonable wages, salaries and compensation to all managers, agents and employees of the business;
- (c) Obligations for supplies and services incurred in the operation of the business and in preservation and maintenance of the property and assets of the debtor since the filing of the petition under Chapter 11;
- (d) Payments to secured creditors, assuming there are sufficient funds available for this purpose, including, but not limited to, regular payments on equipment leases and motor vehicles; and
- (e) Quarterly fee payments to the United States Trustee pursuant to 28 U.S.C. § 1930(a)(6).

The debtor's inability to pay its ordinary post-petition operating costs as they become due may indicate an inability of the debtor to reorganize.

GUIDELINE NO. 10--SALES OF PROPERTY NOT IN THE ORDINARY
COURSE OF BUSINESS

11 U.S.C. § 363, Federal Rule of Bankruptcy Procedure 6004, and Local Rule 6004-1 address sales of property not in the ordinary course of business. All such sales must comply with the procedures and forms prescribed by these rules. The original and one copy (for the United States Trustee) of the Report of Sale required by Federal Rule of Bankruptcy Procedure 6004(f)(1) and Local Rule 6004-1 must be filed with the court within 10 days from the date of the sale.

All auctioneers must be bonded to the United States for an amount equal to the estimated proceeds of any auction sale. Contact the United States Trustee's Office if you plan an auction of property.

GUIDELINE NO. 11--DISCLOSURE STATEMENT

The disclosure process is the heart of the reorganization provisions under Chapter 11. A critical review of the disclosure statement is essential to the protection of those holders of claims or interests who have not directly participated in the negotiations of the plan.

A disclosure statement should contain sufficient information to be meaningful and easily understood. Unsupported factual statements and general information are insufficient. While circumstances will vary widely from one Chapter 11 to the next, and, therefore, the parameters of "adequate information" may also vary, the following information is considered to be relevant in evaluating the adequacy of a disclosure statement. A disclosure statement which does not contain this information will be closely scrutinized for having provided adequate information to creditors.

1. The events leading to the filing of the petition and the financial difficulties of the debtor.
2. The assets and liabilities of the business. Provide current balance sheet information and the source of appraisal values.
3. The anticipated future of the company, including detailed financial projections.
4. The source of information used in the disclosure statement, using a disclaimer if necessary.

5. The operating condition and success of the debtor while in Chapter 11.
6. An estimate of the return to creditors under a Chapter 7 liquidation (brief liquidation analysis).
7. A list of all claims against the debtor, showing the claims to which objections are anticipated and the reasons for the objections. A list of claims to be recognized under the plan.
8. The accounting method used to produce financial information and the name of the accountant(s) responsible for such information.
9. A summary of the proposed Chapter 11 reorganization plan.
10. The parties responsible for the future management of the debtor (controlling persons), and the rate or amount of compensation to be paid for their services.
11. A detailed estimate of the administrative expenses contemplated under the plan, including, but not limited to, attorneys' fees, accountants' fees and other professional fees and expenses. This includes quarterly fees to the United States Trustee.
12. The estimated collectability of the debtor's accounts receivable.
13. The necessary financial information, data and projections relevant to the creditors' decision to accept or reject the Chapter 11 plan.
14. The risks posed to creditors under the plan.
15. The actual or projected

realizable value from recovery of preferential or otherwise avoidable transfers.

16. Anticipated future litigation (bankruptcy and non-bankruptcy contexts) and the estimated cost and source of revenue to fund this litigation.
17. The relationship of the debtor with affiliates and the nature of any future relationships under a reorganization plan.
18. A statement that the plan represents a legally binding arrangement and should be read in its entirety, as opposed to relying on the summary in the disclosure statement.
19. The impaired classes under the plan. Include a layman's definition of impairment.
20. A statement that bankruptcy court approval of the disclosure statement does not constitute approval by the bankruptcy court on the merits of the plan.
21. The amount and source of funds necessary to make the plan work.
22. Information about any securities to be issued pursuant to the plan, including whether the issuance of the securities in question is exempt from the requirements of federal and state securities laws.
23. Future transactions involving insiders or affiliates of the debtor.
24. The material tax consequences to the debtor resulting from the plan.
25. Whether any creditors' committee exists and, if so, whether it

participated in negotiating the terms of the plan.

26. A statement that information about the creditors' committee is on file with the clerk's office.
27. An explanation of the voting requirements for acceptance of the plan.
28. A list of all executory contracts being assumed/rejected pursuant to the plan and an estimate of the consequences (cost) to the debtor of acceptance or rejection.

Failure by the debtor to file a disclosure statement and plan of reorganization/liquidation within 180 days after the entry of the order for relief may result in dismissal of the case or conversion of the case to chapter 7. See Local Rule 2081-1, a copy of which is provided under Guideline 16.

Upon denial of a disclosure statement, the attorney for the proponent should advise the court and United States Trustee of a date by which a new or amended disclosure statement could be filed, and a deadline will be set forth in the order denying approval of the disclosure statement.

GUIDELINE NO. 12--PLAN OF REORGANIZATION

Pursuant to 11 U.S.C. § 1121(b) and Federal Rule of Bankruptcy Procedure 3016, generally, only the debtor in possession may file a plan within 120 days after the date of the order for relief. See § 1123 of the Code regarding the contents of the plan. The debtor is required to furnish a sufficient number of copies of the plan to be served on all creditors and parties in interest, including the United States Trustee. The clerk's office will furnish the attorney for the debtor a labeled mailing list, and it is the responsibility of the debtor's attorney to serve all creditors and parties in interest with the plan and to furnish the Court with a certificate of mailing.

Title 11 U.S.C. § 1127 allows for the modification or amendment of the plan of reorganization. If the modification occurs before confirmation and is not material so as to require additional disclosure pursuant to 11 U.S.C. § 1125, the attorney for the plan's proponent may make this certification on the form attached and no new disclosure statement hearing will be required. A filed copy of the certificate shall be served on

parties in interest and the United States Trustee along with the amended plan.

If the modification requires additional disclosure to comply with 11 U.S.C. § 1125, an amended disclosure statement should be filed and a new disclosure statement hearing will be scheduled.

Failure by the debtor to file a disclosure statement and plan of reorganization/liquidation within 180 days after the entry of the order for relief may result in dismissal of the case or conversion of the case to chapter 7. See Local Rule 2081-1, a copy of which is provided under Guideline 16.

IN RE:

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) Chapter 11

) Case No.

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Debtor.)

I, _____ as attorney for the proponent of the amended plan or reorganization dated _____ and filed _____, hereby certify that the plan amendments do not materially alter the substance of the disclosure statement previously approved by this court. I certify that the disclosure statement contains "adequate information" required by 11 U.S.C. § 1125 in regards to the amended plan of reorganization.

Date: _____

GUIDELINE NO. 13--CONFIRMATION HEARING

A. Balloting - Ballots should be tallied by the plan proponent. Parties wishing to review ballots filed in the Clerk's office may do so by contacting the appropriate case administrator at least 7 days prior to the hearing. The tally sheet should be in affidavit or pleading form and be presented to the court at or prior to the confirmation hearing.

B. Continuance of Hearing or Extension of Time for Balloting - Local Rule 9006 should be followed if a continuance is requested before the confirmation hearing. If an extension of time for balloting is requested at the confirmation hearing, the attached form order will be provided at the hearing.

C. Denial of Confirmation - If confirmation is denied, then the attorney for the proponent should inform the court at the confirmation hearing of a date by which a new or amended plan (and/or disclosure statement) can be filed. A deadline will be set forth in the order denying confirmation of the plan.

IN RE:

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Debtor.)

ORDERED, ADJUDGED, AND DECREED, that the time for filing
ballots in the above-captioned matter be, and hereby is, extended
until _____ on (date).

(name, address, telephone,
and dist. ct. bar # of the
attorney for the plan proponent)

(name, address, telephone,
and dist. ct. bar # of the
attorney for creditor or interested party, if applicable)

GUIDELINE NO. 14--CONSUMMATION OF PLAN

Orders confirming Chapter 11 plans are required to contain the following language:

IT IS FURTHER ORDERED that the debtor, pursuant to Federal Rule of Bankruptcy Procedure 2015(a) and Local Rule 2015-1, shall continue to file monthly operating reports until such time as the case is closed by the Clerk of this Court. These reports shall be in a form satisfactory to the United States Trustee and shall be filed with the United States Trustee and with the Clerk of this Court. The debtor shall state in each report any action taken toward consummation of the plan. The debtor shall project in each report the date for the filing of a final report and report of substantial consummation. The debtor shall, within 180 days after the date the order of confirmation is entered, (1) file a report of substantial consummation and final report and application for final decree; (2) take appropriate action to amend the plan; or (3) file a motion requesting an extension of the 180-day period.

See 11 U.S.C. §§ 1101(2), 1106(a), Federal Rule of Bankruptcy Procedure 2015, and Local Rule 2081-1. A report regarding progress made toward the consummation of the plan should accompany the monthly report filed with the court and furnished to the United States Trustee. These reports should continue until the case is closed by the court.

Failure by the debtor to comply may result in dismissal of the case or conversion of the case to chapter 7. Local Rule 2081-1, a copy of which is provided under Guideline 16.

Payments under the plan do not have to be complete before the report of substantial consummation and final report is filed. The final report should show payments projected to be made in the future pursuant to the plan. See the attached form under Guideline 15.

GUIDELINE NO. 15--APPLICATION FOR FINAL DECREE

Upon substantial consummation of the plan, the debtor in possession must file an application for a final decree. The application for final decree should be filed with the debtor's report of substantial consummation and final report. The application for final decree should include language that the plan has been substantially consummated.

The final report must include, inter alia, an itemized report of all disbursements made and to be made under the plan. These disbursements shall be categorized as "attorneys fees," "costs," "taxes," "wages," "secured claims," and "unsecured claims." See the attached form.

Upon the filing of the final report and report of substantial consummation and the application for final decree, a notice prepared by the clerk's office will be sent by the debtor or debtor's attorney to all creditors and parties in interest, including the United States Trustee. Ordinarily, if no objection is filed, the case is closed and reporting to the court and the United States Trustee is no longer required. The closing of the case does not relieve the debtor from complying with the plan. Upon the failure of the debtor to perform under the plan, the case can be reopened for appropriate action in the bankruptcy court or an action for enforcement may be made in other appropriate courts.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:)
)
) Chapter 11
) Case No.

Debtor.)

FINAL REPORT IN CHAPTER 11 PROCEEDING

The debtor (or trustee) states that the following amounts have been paid pursuant to the Order of Confirmation filed _____ and any other orders of distribution:

A. Priority Payments and Expenses of Administration
(does not include operating expenses)

Trustees Commission
Accountants Fees
Auctioneers Fees
Appraisers Fees
Attorneys Fees for Creditor's Committee
Attorneys Fees for Debtor
Attorneys Fees for Trustee
Other Professional Fees
Taxes, Fines, Penalties
Other Expenses of Administration

TOTAL (A)

B. Payments to Creditors

Other priority payments

Post Involuntary Petition, Pre-Relief Claims
Wages
Contributions to Employee Benefit Plans
Deposits for Undelivered Services or Products
Taxes

Secured Payments

Unsecured Payments

TOTAL (B)

C. Other Payments

Surplus Returned to Debtor

Amount Paid to Equity Holders

Exemption (individual only)

Other

TOTAL (C)

D. Total Distribution (A + B + C)

E. Trustee Disbursements

Amount Disbursed by Trustee on Which Commission Based

F. Value of Abandoned Property or Property Set Apart as Exempt

(name, address, telephone, and
dist. ct. # for counsel for trustee
or debtor)

Date: _____

(file original and five copies with the court)

GUIDELINE NO. 16--LOCAL RULES

There are local rules and operating orders governing the administration and procedure of bankruptcy cases in this district. A copy of the current rules may be obtained from the Clerk's Office. Strict adherence to these rules and orders is required by the Court and by the United States Trustee.

ATTENTION:

Failure to comply with Local Rules 1007-2 and 2081-1 may result in dismissal of the case or conversion of the case to chapter 7.

All debtors-in-possession and their attorneys should be familiar with these rules.

Copies of Local Rules 1007-2 and 2081-1 are attached for your review as Exhibit E.